

Federal Court



Cour fédérale

Date: 20241108

Docket: IMM-14434-23

Citation: 2024 FC 1790

Ottawa, Ontario, November 8, 2024

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

TARANVIR SINGH MINHAS

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicant, a citizen of India, is seeking judicial review of a decision (the “Decision”) by the Refugee Appeal Division (the “RAD”). The Decision affirmed the Refugee Protection Division’s (the “RPD”) finding that the Applicant is neither a Convention refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the “Act”). The determinative issue for both the RPD and the RAD was credibility.

[2] For the reasons that follow, this application for judicial review is dismissed.

II. Background

[3] The Applicant, Mr. Taranvir Singh Minhas, first entered Canada on March 4, 2017 on a study permit. In 2021, he came to the attention of Canada Border Services Agency (“CBSA”) for violating his study permit conditions, after which, he sought refugee protection.

[4] The Applicant alleges that he fears persecution from his uncle and his uncle’s associates due to an inheritance dispute and the money they invested into his education. He alleges that his uncle (and his uncle’s associates) threatened him multiple times, beat him and threatened to kill him after he received his study permit for Canada.

III. The RAD’s Decision

[5] The RAD upheld the RPD’s credibility findings and dismissed the claim. The RAD held that the discrepancies between the Basis of Claim (“BOC”) narrative and his oral testimony, the inconsistencies in testimony, the evolving testimony, omissions, lack of reasonable explanations and vagueness, when taken in totality, rebut the presumption of truthfulness of the underlying allegations in the claim. Accordingly, the Applicant failed to make out a successful claim under section 96 or 97 of the Act because the underlying allegations were not established on a balance of probabilities.

IV. Issues

[6] The only issue in this judicial review is whether the RAD erred in its credibility analysis.

V. Standard of Review

[7] The standard of reasonableness applies to the RAD's findings, including findings of credibility (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]).

[8] Significant deference is owed to the RAD with respect to the assessment of credibility (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1106 at para 19).

VI. Analysis

[9] The Applicant submits that the RAD erred in all seven of its credibility findings: (1) that the Applicant's personal background does not explain deficiencies in his testimony, (2) that discrepancies between his testimony and BOC affect credibility, (3) that omissions in the BOC are detrimental to credibility, (4) that the Applicant did not stay in New Delhi, (5) that the Applicant's evidence regarding land inheritance is not credible, (6) that inconsistent evidence undermined the Applicant's credibility, and (7) whether the Applicant was seeking state protection.

[10] The Respondent submits that the Applicant's submissions are mere disagreements with the Decision and the repetitive explanations provided are insufficient to overcome the

inconsistencies and omissions in his evidence. For the most part, I agree, subject to a misstatement by the RAD concerning the alleged inconsistency between the BOC and the Applicant's testimony.

[11] On judicial review the reasonableness standard does not allow the Court to revisit the evidence, weigh it, and make findings of fact (*Yan v Canada (Citizenship and Immigration)*, 2018 FC 781 at para 23). In this case, the Applicant invites this Court to re-weigh the evidence but does not identify a reviewable error requiring this Court's intervention.

[12] I will briefly address the Applicant's seven factors raised. To avoid repetition, I address factors 2, 3, 4, 5, and 6 together, as they all relate to the RAD's findings that inconsistencies and omissions in his testimony and BOC affect credibility. I do not need to address item 7, as the RAD, at paragraph 34 of the Decision, disagreed with the RPD's finding on this point, and therefore, it did not undermine the Applicant's credibility.

[13] With respect to the first factor, I agree with the RAD that "the Applicant's personal background does not explain deficiencies in his testimony." Moreover, and contrary to the Applicant's assertions, the RAD considered the Applicant's background and the specific factors raised, then concluded "[w]hen considering the Appellant's age, his education background, his time spent in Canada, the use of legal counsel, and his poise at the hearing, I cannot find that his personal background would explain the deficiencies in his testimony." This finding was reasonable.

[14] I also note that the RAD's overall findings are commensurate with the Applicant's personal background, and that they reflect the totality of the evidence before it. Additionally, regardless of the Applicant's ability to answer the technical or complicated questions posed, the Applicant's inconsistencies reflect more than just "a big gap in time [...] which affects one's recollections of events."

[15] With respect to factors 2-6, this Court has found that omissions and contradictions in an applicant's testimony and BOC are a reasonable basis for doubting an applicant's credibility (*Ogaulu v Canada (Citizenship and Immigration)*, 2019 FC 547 at paras 18-21; *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 22). Although the RAD wrongly characterized the inconsistencies as arising between the BOC and the testimony, when the inconsistencies were in the testimony only, the heart of the contradiction remains. Importantly, the contradictions in oral testimony related to the dates of the alleged attacks and threats, which are key omissions from the Applicant's BOC. The Applicant's omission of these dates, and other important dates and information from his BOC, on its own, is a reasonable basis for doubting credibility (*Zeferino v Canada (Citizenship and Immigration)*, 2011 FC 456 at para 31).

[16] The inconsistencies and omissions identified by the RAD related to critical aspects of the Applicant's claim, such as the timing of the alleged threats and attacks, details of his land inheritance, and his temporary move to New Delhi for his own safety. The Applicant's memorandum states that the Applicant had been "just guessing" when he was asked dates. This admission only supports the RAD's findings regarding credibility, as opposed to rectifying the RAD's basis for it. On review of the record and the Applicant's submissions, I find it was

reasonable for the RAD to conclude that the Applicant was not credible and failed to make out his claim under section 96 or 97 of the Act.

[17] On judicial review, the Applicant largely attempts to explain and “set straight” the Applicant’s inconsistent evidence and evolving testimony, as opposed to identifying errors in the RAD’s reasoning. It is not sufficient to overcome the RAD’s negative credibility findings by asserting that the Applicant was not sophisticated, that the Applicant “did not remember”, or to argue that the inconsistencies are insufficient to render the Applicant not credible. These arguments amount to a mere disagreement with the RAD’s findings and a request for this Court to re-weigh the evidence. That is not the role of this Court.

VII. Conclusion

[18] For the reasons above, the RAD did not make a reviewable error that renders the Decision unreasonable. This application for judicial review is dismissed.

JUDGMENT in IMM-14434-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question for certification.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14434-23

STYLE OF CAUSE: TARANVIR SINGH MINHAS v THE MINISTER OF
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