Date: 20070904

Docket: IMM-682-07

Citation: 2007 FC 881

Ottawa, Ontario, September 4, 2007

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

MUHAMMAD FAROOQ GHAURI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant seeks judicial review of the decision of a Refugee Protection Division Panel dated January 17, 2007, wherein the Panel Member found that the applicant is neither a Convention refugee nor a person in need of protection. For the reasons that follow, I find that there are no grounds for the Court to interfere with that decision and the application is dismissed.

[2] Mr. Ghauri, a Sunni Muslim, practiced naturopathy in Okara, Pakistan. Among his clients were members of the Ahmadi faith, a sect not recognized by some adherents of Islam. He claims that he suffered persecution as a result of this by members of the Sunni extremist organization

Khatam-e-Nabuvat. After receiving death threats he left Okara and went to Faisalabad where he says that he was attacked on two occasions and had to be hospitalized as a result. Following his recovery, he moved to Lahore where he says he learned that a Fatwa had been issued against him in Okara and an unknown caller had warned his father that the extremists thought he might be in Lahore. On June 20, 2006 he was smuggled into Canada and made his claim for protection the following day.

THE PANEL'S DECISION:

[3] The member found that while there was a nexus to the Refugee Convention based on the applicant's perceived allegiance with the Ahmadis there were several grounds for finding that nexus to be insufficient to accept his claim for the necessity of protection by a country other than Pakistan.

[4] The member first found him to be in default of Rule 7 of the RPD Rules for falsely claiming that an original copy of the fatwa could not be sent outside Pakistan. The Applicant had claimed that he could not provide an original copy to the RPD panel because of this. The member found the fatwa to be false and issued for the purpose of misleading the Panel.

[5] Second, the member found that Mr. Ghauri had not rebutted the assumption of state protection. She found that the police were unable to provide protection in the specific situation of the two attacks against him due to his inability to identify the perpetrators.

[6] The member also found that an affidavit from Mr. Ghauri's cousin was too similar to the applicant's PIF, and was not credible. She further found the applicant's credibility was undermined

by inconsistency between his PIF and testimony and medical reports regarding the injuries suffered in Faisalabad. The lack of a letter of corroboration from the Ahmadi community of Okara, for whose treatment he had allegedly suffered so much, further damaged his credibility.

[7] Finally, the member found that the applicant had an Internal Flight Alternative ("IFA") within Pakistan, namely Islamabad. She concluded that as it is a large city without a significant Ahmadi population, Mr. Ghauri could practice natural medicine there without facing persecution.

ISSUES:

[8] The applicant submits that the Panel erred in concluding that he was neither a Convention refugee nor a person in need of protection specifically by:

a. finding there is a viable IFA in Islamabad;

b. by making credibility findings that were patently unreasonable;

c. and in failing to consider the evidence.

ANALYSIS:

[9] There was no dispute between the parties as to the standard of review. Issues going to credibility are "quintessentially findings of fact" for which the standard of patent unreasonableness attaches: see *Dr. Q. v. College of Physicians and Surgeons of British Columbia*, [2003] 1 S.C.R. 226 at paragraph 38; *Chowdhury v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 139 at para. 12 [*Chowdhury*]. It is also well-established that the same standard applies to review for

a finding of a viable IFA: see *Ortiz v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 1365, [2006] F.C.J. No. 1716 at paragraph 35;

[10] In my view, the member's credibility findings were open to her on the evidence. The member had several causes for concern which she clearly linked to the evidence. While I may not have found the photocopy of the Fatwa tendered in evidence to be false due to the applicant's confusion over whether the original poster could be sent out of the country, it was not patently unreasonable for the member to come to such a conclusion on the evidence before her.

[11] Given that the claim turned upon persecution related to the applicant's treatment of members of the Ahmadi minority, it was not unreasonable for the member to inquire why there was no evidence of support from that community in Pakistan or Canada, notwithstanding the applicant's contention that their interests were not directly affected.

[12] The applicant suggests that the negative finding of credibility with regard to the inconsistency between his testimony and the medical reports he proffered as evidence was a microscopic review of the evidence. For this, he has cited *Attakora v. Canada (Minister of Employment and Immigration)*, [1989] F.C.J. No. 444 (F.C.A.). In my view, the Member's concerns about the inconsistency on the question of paralysis are not microscopic to the extent of the panel's examination of the evidence in *Attakora*. The reports tendered did not support the applicant's account of the effects of the beating he had suffered and the member did not err in relying upon that.

[13] As stated by my colleague Phelan J. at paragraph 5 of *Uddin v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 287:

> The Court recognizes that it is a difficult task to balance over-zealousness on the one hand and diligence at obtaining the truth on the other. Only in clear cases of crossing this line should a court interfere.

[14] With respect to the contention that the member erred in ignoring or failing to consider some of the evidence, the applicant has offered no evidence to overcome the presumption that tribunals have considered all the evidence before them in coming to their decisions without the need to specifically mention every piece presented. Having concluded that the affidavit of one cousin was implausibly similar to the applicant's PIF and for that and other reasons the claim was not credible, it was not necessary for the member to deal with each other item of evidence including the affidavits from the father and the other cousin.

[15] In any event, the determinative finding in this matter was that Mr. Ghauri had a viable IFA in Islamabad. Given the lack of evidence produced to show that the fatwa was published or known outside the applicant's local area it was not patently unreasonable for the member to conclude that the applicant had not met his burden of proof. In this regard, the case is similar to that recently decided by Justice Noël: *Zia v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 131, [2007] F.C.J. No. 184.

[16] Accordingly, the application will be dismissed. No questions were proposed for certification.

JUDGMENT

IT IS THE JUDGMENT OF THIS COURT that the application is dismissed. No questions of general importance are certified.

"Richard G. Mosley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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