

Date: 20071005

Docket: IMM-868-07

Citation: 2007 FC 1034

Ottawa, Ontario, October 5, 2007

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

CHINDER SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] In determining that Chinder Singh is not a convention refugee and is not a person in need of international protection, the Panel of the Refugee Protection Division of the Immigration and Refugee Board said he was not credible, or was not to be believed, or that his story was not plausible, or that he was not a reliable witness, at least 14 times. There comes a point when it becomes apparent that someone is looking for reasons not to believe. So it is in this case.

[2] Counsel for Mr. Singh suggests that there are 16 reasons why the decision should be set aside. Perhaps there are not quite 16, but most of the findings of fact which led to the decision are patently unreasonable. The claim was rejected because he could not satisfactorily speculate as to

why third parties did or did not do certain things, because certain information was not in his personal information form and because certain third party documentation was not sufficiently detailed to suit the Panel's taste.

[3] Mr. Singh left India for Scotland in 1991. His refugee claim was ultimately rejected and he was returned to India in May 2004. Unfortunately, we do not have copy of the decision.

[4] The basis of his claim in the U.K. was that the Indian police thought that he was assisting Sikh militants. He says he was tortured, and forced to sign blank pieces of paper. His injuries required medical attention.

[5] He returned to India on a special travel permit which should have specifically brought him the attention of Indian authorities. He had no problem getting out of the airport in Delhi, perhaps because his wife and an agent bribed someone.

[6] The essence of his application in Canada is that the Indian police arrested him in December 2004 and accused him of sending money to militants. He was badly beaten and then medically treated over a two-week period including one day in the hospital. With the help of some friends, he was released and made his way here.

[7] In his personal information form (PIF), Mr. Singh outlined the reasons why he went to Scotland, but he did not mention what if anything happened while he was there from 1991 to 2004.

The Panel questioned him about these years and was informed that for the first years the police had continued to visit his family, and had said to them that he had gone to Pakistan for further training. It would have been better, as the Panel says, that this information had been set out in his PIF. However, it is a stretch to say this shortcoming proves he is a liar.

[8] He said his family informed him that they did not tell the authorities where he was except to say that he was outside India. The Panel could not understand why the family would not inform the police that he had gone to the U.K. Why should the family tell the police where he was? Country reports indicate that the U.K. was a hotbed of fundraising. Knowledge of his exact whereabouts could well have exposed him to an “agent provocateur”.

[9] The real issue is whether he was tortured by the police in India in December 2004.

[10] The Panel does not understand how it could come about that he could leave the airport in Delhi in May 2004 and be left alone by the police until they suddenly accosted him eight months later. He was asked how it was plausible that the police would not raid his home or arrest him in the meantime. How could he possibly know what was running through the minds of the police, or what information they had and when they received it?

[11] He had a brief letter from a doctor in India mentioning he was treated at times which correspond with the alleged police brutality. The Panel said the:

Medical report gives a general overview for kind of injuries or the complaints the claimant had and the treatment given. It does not

specify for each incident the relevant injuries and the treatment...
The panel gives no probative value to the medical report. This further
undermines his credibility.

[12] How does the fact that the Panel would like a more detailed report undermine Mr. Singh's
credibility?

[13] In his PIF, he says that when the police detained him in December 2004 they stripped him
naked and beat him with leather belts and wooden sticks. During his testimony he mentioned that
they also ran rollers over his body. "His PIF does not say they put rollers all over his body... He is
not credible". Exactly how much detail was required in order to satisfy this Panel?

[14] He had no x-rays taken in India because he said he had no time. The Panel thought he was
not credible because if he were treated from January 8 to January 24, surely he would have time for
an x-ray. Perhaps the Panel knows how long it takes to arrange an x-ray in India. The record
certainly does not give the answer.

[15] A municipal councillor wrote a letter saying how she knew Mr. Singh over the years and
had helped get him out of India in 2005. Since the author stated she was fully aware of the
claimant's problems, the Panel said the letter lacked in several specifics.

For example, how many times and exactly when the claimant was
arrested, particularly for his last arrest on December 31, 2004, his
hospitalizations and/or medical treatments, when released from each
detention and foremost the condition of his release from each
detention...The panel assigns no probative value to the letter and it
does not believe the claimant.

The municipal councillor did not claim to be a doctor and should not be taken to task for not writing a 15-page letter, when to a reasonable decision maker one or two pages would do.

[16] X-rays were taken in Montreal. The doctor reported that Mr. Singh suffers from mild osteoarthritis. However, he could not confirm that the chronic pains in his knees were caused by the alleged acts of violence. On the other hand, the doctor does not say that his condition was inconsistent with acts of violence. How does this undermine credibility?

[17] Mr. Singh's claim was rejected because "...he failed to establish the well-foundedness of his fear with credible evidence." It appears no amount of evidence short of a confession by the police would have satisfied the Panel that he was credible, and even a confession would have been suspect.

[18] Although I am granting the application for judicial review, I strongly urge Mr. Singh to come up with copy of the United Kingdom decision rejecting his claim.

ORDER

THIS COURT ORDERS that the application is granted and referred back to a differently constituted panel for redetermination. There is no question of general importance to certify.

"Sean Harrington"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-868-07

STYLE OF CAUSE: *Chinder Singh v.*
The Minister of Citizenship and Immigration

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: October 2, 2007

REASONS FOR ORDER: HARRINGTON J.

DATED: October 5, 2007

APPEARANCES:

Me Jean-François Bertrand FOR THE APPLICANT

Me Bassam Khouri FOR THE RESPONDENT

SOLICITORS OF RECORD:

Bertrand Deslauriers FOR THE APPLICANT
Barristers & Solicitors
Montréal, Quebec

John H. Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada
Montréal, Quebec