

Date: 20080522

Docket: IMM-4395-07

Citation: 2008 FC 644

Toronto, Ontario, May 22, 2008

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

KEDIJA MELKA ANJETE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Kedija Melka Anjete is a citizen of Ethiopia, whose claim for refugee protection was rejected by the Refugee Protection Division of the Immigration and Refugee Board on credibility grounds. Ms. Anjete now seeks judicial review of that decision, asserting that the Board erred in finding that there was no evidence that elderly members of the Oromo ethnic group were targeted for persecution by the Ethiopian government, when there was country condition information before the Board to the contrary effect.

[2] For the reasons that follow, I am not persuaded that the Board erred as alleged. As a consequence, the application for judicial review will be dismissed.

I. Standard of Review

[3] Both parties agree that the standard of review to be applied to the Board's credibility findings is that prescribed in paragraph 18.1(4)(d) of the *Federal Courts Act*. That is, they say that the Board's findings should not be disturbed unless they are based on erroneous findings of fact made in a perverse or capricious manner or without regard for the material before it.

[4] The Supreme Court of Canada did not address paragraph 18.1(4)(d) in *Dunsmuir v. New Brunswick*, [2008] S.C.J. No. 9, and the effect of this statutory provision in light of the common law jurisprudence with respect to standard of review is a question currently before the Supreme Court in *Canada (Minister of Citizenship and Immigration v. Khosa*, (File No. 31952).

[5] I do not need to resolve this question for the purposes of this application, however, as I am satisfied that the outcome would be the same, whether I apply a 'perverse or capricious manner or without regard for the material before the Board' standard, or the reasonableness standard prescribed by *Dunsmuir*.

II. Analysis

[6] Contrary to Ms. Anjete's submissions, the Board did not make a blanket finding that there was no evidence that elderly Oromo individuals were ever targeted for persecution by the Ethiopian

government. A review of the reasons discloses that the Board's findings were directed to the risk faced by Ms. Anjete herself, in light of the evidence regarding her particular circumstances.

[7] The first statement in the reasons with which Ms. Anjete takes issue is the Board's finding that the country condition information indicated that persecution was directed "largely at professionals and students within the country". However, no arguments have been advanced to suggest that this finding was not grounded in the evidence, or was otherwise unreasonable.

[8] The Board then went on to say that "There is no evidence *that this elderly woman* would be attributed any political profile nor pose any ethnic threat to government authorities" [emphasis added]. A review of the evidence that was before the Board, including the transcript of Ms. Anjete's testimony, confirms that this finding was one that was reasonably open to the Board.

[9] Ms. Anjete also takes issue with the Board's finding that "There is no evidence ... that the claimant, as an older person, *would be specifically targeted* given the documentary evidence" [emphasis added]. In this regard, she points to a Human Rights Watch report that refers to two incidents in which elderly Oromo men were detained by Ethiopian government officials.

[10] However, a review of the circumstances of the two individuals referred to in the report suggests that they were different than Ms. Anjete's own situation. In one of the cases, the detention evidently related to the fact that the individual's son was suspected of being a member of the Oromo

Liberation Front. The other elderly individual was suspected of having himself been involved with the OLF.

[11] Moreover, Ms. Anjete's testimony at her refugee hearing provided an ample evidentiary foundation for the Board's finding that she did not have a profile that would attract government attention.

[12] Finally, the Board had several other reasons for finding that Ms. Anjete's story of persecution at the hands of the Ethiopian government was simply not credible. These included her one and a half year delay in leaving Ethiopia, her delay in claiming once she got to Canada, and the fact that Ms. Anjete's daughter in Canada was seeking to have her mother come to Canada to help her with the care of her four children. Taken together, these findings provided a sufficient basis for rejecting the claim, and the Board's decision in this regard was reasonable.

III. Conclusion

[13] For these reasons, the application for judicial review is dismissed.

IV. Certification

[14] Neither party has suggested a question for certification, and none arises here.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application for judicial review is dismissed; and
2. No serious question of general importance is certified.

“Anne Mactavish”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4395-07

STYLE OF CAUSE: KEDIJA MELKA ANJETE v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 21, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** MACTAVISH J.

DATED: MAY 22, 2008

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