

**B E T W E E N:**

**INDRARAJAN KANAPATHYPILLAI**

Applicant

- and -

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

Respondent

**REASONS FOR ORDER**

**HEALD, D.J.:**

This is an application for judicial review of a decision of the Convention Refugee Determination Division of the Immigration and Refugee Board (the "Board") dated September 23, 1996, wherein it was determined that the applicant is not a Convention refugee.

The Facts

The applicant is a citizen of Sri Lanka. His claim for refugee status is on the basis of his perceived political opinion and membership in a particular social group, namely, male Tamils from Jaffna. The sole issue herein is whether the Board erred in finding that the applicant had an internal flight alternative in southern Sri Lanka since it was agreed that the applicant had a reasonable fear of persecution in northern Sri Lanka.

The applicant and his son arrived in Colombo in early October of 1995. Eight days after their arrival, they were both arrested during a round-up at the lounge where they were staying. The applicant stated that he was questioned on the purpose of his visit to Colombo and was accused of being involved in the sabotage of an oil refinery. He further stated that the authorities did not believe him and subjected him to cruel treatment as well. At the hearing before the Board, the applicant's counsel chose not to examine him on his treatment while in custody. In his affidavit (November 14, 1996), the applicant said that, at the Board hearing, the Board member indicated that he accepted the applicant's Personal Information Form (P.I.F.) as if it was given under oath and that it would not be necessary for him to repeat any of the evidence set out in the P.I.F. This statement is not supported by the hearing transcript. Whatever transpired prior to the Board hearing (for which there is no transcript), the hearing transcript clearly shows that the internal flight alternative was identified as a relevant issue.

#### Issues

1. Did the Board err in concluding that the applicant was not mistreated during his time in custody in Colombo?
  
2. Did the Board further err in concluding that there was no serious possibility of persecution of the applicant in Colombo?

#### Analysis

##### 1. Cruel and inhuman treatment

The basis for this allegation is found in the applicant's Personal Information Form (P.I.F.). This P.I.F. makes an ambiguous and confusing claim. No evidence was adduced to support it. Such statements as "I am a refugee" or "I was persecuted" or "I suffered inhuman treatments" are not sufficient in themselves to substantiate a claim to Convention refugee status. To be effective, they must be supplemented by cogent evidence. Counsel for the applicant suggests that the applicant was beaten and tortured during his detention. The evidence on this issue is not persuasive. Accordingly, I conclude that cruel and inhuman treatment has not been established on this record.

2. Serious possibility of persecution in Colombo

It is the applicant's submission that the Board erred in concluding that the treatment of the applicant was justified because Sri Lanka, involved in a civil war, was necessarily entitled to adopt stringent security measures. In any event, this record does not establish that the applicant was mistreated in Colombo as alleged. The Court cannot be asked to imply mistreatment in the total absence of evidence thereof.

Additionally, I do not think that the Board's reasons can be taken as justifying persecution during a civil war.

What the Board was saying was that security measures relating to the applicant were understandable in view of the civil war, but, in any event, such measures did not constitute persecution. Accordingly, I conclude that the Board did not err when it found that the applicant was not a person who would have a reasonable fear of future persecution upon return to Sri Lanka.

Since the applicant did not adduce any specific evidence to the effect that he had been beaten or tortured during his detention in Colombo, it follows, in my view, that this application for judicial review must be dismissed.

Neither counsel suggested certification of a serious question of general importance pursuant to Section 83 of the Immigration Act, I agree with counsel. Accordingly, no question is certified.

"Darrel V. Heald"  
D.J.

Toronto, Ontario  
July 11, 1997

**FEDERAL COURT OF CANADA**

**Names of Counsel and Solicitors of Record**

COURT NO: IMM-3724-96

STYLE OF CAUSE: INDRARAJAN KANAPATHYPILLAI

- and -

THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

DATE OF HEARING: JULY 10, 1997

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR ORDER BY: HEALD, D.J.

DATED: JULY 10, 1997

**APPEARANCES:**

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For the Applicant

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For the Respondent

**SOLICITORS OF RECORD:**

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For the Applicant

George Thomson  
Deputy Attorney General  
of Canada

For the Respondent

**FEDERAL COURT OF CANADA**

Court No.: IMM-3724-96

Between:

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