

Date: 20090520

Docket: IMM-2938-08

Citation: 2009 FC 524

Calgary, Alberta, May 20, 2009

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

CHANDRA WATI PRASAD

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Chandra Wati Prasad is a citizen of Fiji of Indo-Fijian ancestry. Her refugee claim was rejected by the Refugee Protection Division of the Immigration and Refugee Board, which found her story of persecution at the hands of an ethnic Fijian landowner not to be credible.

[2] For the reasons that follow, I am satisfied that the Board's decision was reasonable. As a consequence, the application for judicial review will be dismissed.

Analysis

[3] The applicant and her late husband were farmers in Fiji. In 1999, the lease on the family's farm expired, and the landowner refused to renew the lease. The couple then purchased a piece of land from an ethnic Fijian landowner, and the family built a home on the property. After the applicant's husband died, the applicant says that native Fijians demanded money from the family. She alleges that she was physically assaulted by the extortionists, and had to flee to a refugee camp. Because she did not feel safe in the refugee camp, she came to Canada, where she joined other members of her family.

[4] As the Board noted, there were a number of difficulties with the applicant's story. For example, she had asserted, both at the port of entry and in her Personal Information Form (or "PIF"), that she had been pushed around by the native Fijians in May of 2006. At her refugee hearing, the applicant stated that she had been pushed around by native Fijians on one occasion, in March of 2006. When the discrepancy in the dates of the assault was pointed out to her, the applicant then described a second pushing incident, which she says took place in May of 2006. The applicant then went on to say that incidents of this nature took place "a few times".

[5] Given that the physical assault or assaults on the applicant were central to her refugee claim, the omissions and inconsistencies in the applicant's evidence on this issue were clearly material to her claim.

[6] The Board also noted that there were inconsistencies in the applicant's story as it related to the status of the family home. Although the applicant claimed that she and her husband had purchased the property on which the family home was located, she also testified that the owner of the land would come to her home to collect what she described as "the lease money" or "the rent", and would demand extra money over and above the amount owing.

[7] The Board was also troubled by the fact that the applicant claimed in her testimony that the landowner would come to the refugee camp to seek her out when he was drunk. This too was not mentioned in her PIF, which simply stated that the applicant did not feel safe in the refugee camp, without offering any explanation for why that was. As counsel for the respondent pointed out, there are many reasons why someone might not feel safe in a refugee camp. Once again, the Board's conclusion that this was a significant omission was reasonable.

[8] The Board also noted that the applicant had provided two completely different explanations for her failure to report the alleged violent attack or attacks to the police. In her PIF, the applicant said that she did not seek police assistance, as the police will not protect Indo-Fijians. In contrast, at her refugee hearing, the applicant stated, for the first time, that the native Fijians who had assaulted her had threatened to kill her if she sought police assistance.

[9] Once again, the inconsistency in the applicant's evidence on this point goes directly to the central issue in the case, and the Board's finding that there was an important contradiction in the applicant's story is one that was amply supported by the record.

[10] The applicant argues that the Board ought to have given consideration to the fact that she is an illiterate elderly widow in assessing her testimony. First of all, it is clear from the reasons that the Board was well aware of the fact that the applicant was 60 years of age and had an eighth grade education. It is also noteworthy that the applicant had the assistance of counsel throughout the process, including in relation to the preparation of her PIF. With respect to the applicant's alleged illiteracy, not only is there no evidence to support this assertion, there is no indication in either the body of the applicant's affidavit or in its jurat that the affidavit had to be read to her in order for her to understand it.

[11] Finally, the decision in *Hristova v. Canada (Minister of Employment and Citizenship)* (1994), 75 F.T.R. 18, relied upon by the applicant is clearly distinguishable, as the Court in that case found that the Board had ignored evidence relating to a central finding. That is not the case here.

Conclusion

[12] For these reasons, I am satisfied that the Board's finding that the applicant was not credible was reasonable, and that the decision to dismiss her refugee claim is one that falls within the range of possible acceptable outcomes that are defensible in light of the facts and the law: see *Dunsmuir v. New Brunswick*, 2008 SCC 9, at paragraph 47. As a consequence, the application for judicial review is dismissed.

Certification

[13] 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-2938-08

STYLE OF CAUSE: CHANDRA WATI PRASAD v. MCI

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: May 19, 2009

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

DATED: May 20, 2009

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