Federal Court  Cour fédérale

Date: 20130426

Docket: T-5-12

Citation: 2013 FC 437

Ottawa, Ontario, April 26, 2013

PRESENT: The Honourable Mr. Justice de Montigny

BETWEEN:

GURNAM SINGH

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Mr. Gurnam Singh (the "Applicant") is applying for judicial review in respect of a November 25, 2011 decision of the Office of the Commissioner of Review Tribunals ("Review Tribunal" or "Tribunal") that the Applicant was not residing in Canada between August 9, 1997 and April of 2007 and thus was not entitled to an Old Age Security (OAS) Pension. In addition to seeking the setting aside of the Tribunal's decision, the Applicant originally requested that the Court do the following: (i) order that Gurmit Kaur, the Applicant's spouse, be added as a party to the appeal; (ii) declare that the Applicant and his spouse have been residents of Canada since their

arrival in August 1997; (iii) grant an order and/or declaratory relief granting the Applicant and his spouse an OAS pension from August 2007 onwards or from such other date as this Court deems fit. At the hearing, the Applicant abandoned his requests insofar as they relate to his wife.

[2] Having carefully considered the record and the parties' submissions, I have come to the conclusion that the Applicant has failed to identify any reviewable error in the Review Tribunal's decision that would warrant the Court's intervention. Accordingly, this application for judicial review ought to be dismissed.

1. Facts

[3] The Applicant was born in India in January 1935 and immigrated to Canada in 1997. The Applicant is a citizen of India but apparently obtained permanent resident status in Canada in 2003.

[4] The Applicant and his wife have four children, including two daughters living in the United States, one daughter living in England, and one son with whom they live in Calgary, Alberta. The Applicant's parents passed away before he immigrated to Canada. He has one brother living in India (described as his "real brother") and another brother who was disowned by his father. The Applicant's wife's parents both lived in India when the couple first moved to Canada in 1997, but have since passed away in June 1998 and January 2001, respectively. The Applicant's wife has one brother living in the United States and another brother and three sisters living in India.

[5] The Applicant claims that he sent his son to Canada in 1991 to further his son's engineering studies and permit him to find a job. The Applicant states that he sold his assets and borrowed

money from friends and family in order to support his son, and that his son sponsored him and his wife to immigrate to Canada after completing his education. Prior to moving to Canada, the Applicant claims to have gifted his portion of his ancestral home to his real brother to reimburse him for borrowed money, and submits that he and his wife moved all of their personal possessions to Canada when they immigrated in 1997.

[6] The Applicant now lives in one room of his son's home, but argues that he considers his son's home to be his home and that his investment in his son constituted his retirement plan, as he immigrated to Canada with the intention of staying here with his son. The Applicant drives, but does not own a car.

[7] The Applicant's current passport, which was granted in 2005 by the Republic of India and will expire in 2015, lists his ancestral home as his address. His previous passport, issued by the Republic of India from 1995 to 2005, listed the same address. In Canada, the Applicant's son pays all bills related to their shared household (apart from a cell phone bill allegedly paid by the Applicant, although no evidence was produced in this regard) and the Applicant does not pay rent.

[8] As evidence of his ties to Canada, the Applicant has provided: a number of notes from his doctor; letters from the Board of Trustees Chairman for the Dashmesh Culture Centre and the President of the Dashmesh Senior Citizen Society; letters from the Alberta Blue Cross and from Alberta Health and Wellness; two letters from the CIBC confirming that the Applicant has been a customer since 1997; and his income tax returns since 1997. Regarding income earned in Canada, the Applicant advises that at various times he worked as a cleaner and for a security company. The

only two years within the period considered by the Review Tribunal for which he declared a significant amount of income are 2006 ($12,382) and 2007 ($6,983). He also appears to have declared income of $14,797 and $15,001 for 2008 and 2009.

[9] The Applicant indicated that he does not have health coverage or keep a bank account in any country other than Canada, and that he does not own any property.

[10] All but one of the Applicant's absences from Canada since 1997 were for periods of less than one year. Shortly after first arriving in Canada, the Applicant spent two months in India to arrange his son's marriage. After a short return to Canada, the Applicant spent 11 months in India, both performing rituals in relation to the death of his father-in-law (who died on June 2, 1998, just before the Applicant's June 10th trip) and in order to attend his son's marriage. From May 2000 to April 2001, the Applicant accompanied his wife to India while she cared for her ailing mother, also travelling to various religious places to do volunteer work and attending his mother-in-law's funeral during the 11-month period. On both trips involving the deaths of his wife's parents, the Applicant obtained a Returning Resident Permit and returned to Canada within one year of leaving. The Applicant spent a six-month period in India in 2002 and two additional five-month periods in India, from 2006 to 2007 (to accompany his daughter, who was scattering her mother-in-law's ashes) and from 2010 to 2011 (to attend his granddaughter's marriage). While in India, the Applicant indicates that he (and his wife) would stay in the ancestral home with his real brother or stay in religious places, using the ancestral home as a base for such travels. The Applicant also made a number of shorter trips to visit family in the United States and had at least one stopover in Singapore.

[11] From October 27, 2003 to June 9, 2005, a period of approximately one year and seven months, the Applicant returned to India to serve the community and help the poor and needy, visiting religious places and performing volunteer work, as well as assisting a religious society of which he was General Secretary prior to immigrating to Canada.

[12] The Applicant first applied for an OAS pension and Guaranteed Income Supplement (GIS) on September 4, 2007. This application was refused as the Respondent found that the Applicant had not resided in Canada for the 10 years required in order to qualify for a partial OAS pension. In determining the Applicant's residence, only actual residence and not periods of presence in Canada were counted. Although the Applicant applied for reconsideration of this decision, he was informed on two occasions that he had missed the 90-day reconsideration period and was advised to re-apply.

[13] The Applicant submitted a second application for an OAS pension and GIS on October 24, 2008, attaching a letter and documents to substantiate residence in Canada. The application was again denied on the basis of insufficient residence in Canada and the Applicant was provided with a letter suggesting that his passport stamps and time spent in India (more than four of eight years) "overwhelmingly show[ed] that [his] residential ties were not with Canada during [that] period, but were instead with India".

[14] When asked to reconsider this finding, the Minister maintained the original decision, indicating in a letter dated July 7, 2009 that the Applicant was present in Canada for approximately 7 years, 210 days from August 9, 1997 to January 30, 2009, and resident in India for approximately 3 years, 341 days during the same period. The Minister found that despite the Applicant's presence

in Canada, he did not maintain a permanent residence during the relevant period of time. The Applicant appealed the Minister's decision to the Review Tribunal, and it is that decision that is the subject of the current application for judicial review.

2. The impugned decision

[15] The Tribunal identified the main issue on the appeal to be whether the Applicant was entitled to an OAS pension. It then summarized the relevant provisions of the *Old Age Security Act*, RSC, 1985, c O-9 ("*OASA*") and the *Old Age Security Regulations*, CRC, c 1246 ("*OASR*"), including subsection 21(5), which deems that certain absences from Canada, including work "as a missionary with any religious group or organization", will not interrupt a person's residence or presence in Canada.

[16] The Tribunal clarified that the more specific issue on appeal was whether the Applicant had proven residence in Canada within the meaning of the *OASA* and *OASR* for an aggregate period of at least ten years and, if so, when pension entitlement commenced. The Applicant takes the position that his pension entitlement commenced in August 2007, being 10 years from his date of landing, while the Respondent argues that the Applicant had not established any residency in Canada for the purpose of an OAS pension as of the date of the hearing.

[17] The Tribunal summarized the evidence in the hearing file and the Applicant's evidence, much of which is summarized above, including answers from questionnaires in which he described the reasons for his absences from Canada and for unexplained passport stamps. At paragraph 31 of its decision, the Tribunal notes that the Applicant advised that when his son sponsored him to

immigrate to Canada, the son was aware that his father had nothing left financially as he had sold everything to support the son in Canada. It also notes that the Applicant transferred his interest in the ancestral home to his real brother to pay back the money he had borrowed from him and that the Applicant brought all of his clothing and personal belongings with him to Canada, not leaving anything in the ancestral home.

[18] The Tribunal cited case law establishing that residency is a factual issue and that neither an applicant's intentions nor an absence of greater than one year are determinative of the issue. It then set out a list of factors relevant to the question of residency, and noted that the onus is on the Applicant to prove he is entitled to an OAS pension. The Tribunal denied the Applicant's assertions that the residency requirements under the *OASR* violate the Applicant's mobility rights, or any other *Charter* rights.

[19] In concluding that the Applicant failed to prove residence of at least ten years in Canada, the Tribunal stressed the Applicant's numerous, regular and lengthy trips back to India and his continued significant ties with that country, making the following key findings:

(i) The Applicant's compliance with immigration laws in obtaining two Returning Resident Permits (RRPs) and Permanent Resident status (in 2003) is not determinative as residency depends on other factors in addition to immigration status and compliance with immigration laws;

(ii) Intention alone is not sufficient to establish residency;

(iii) The Applicant has some ties to Canada (e.g., living with his son's family, joining some social organizations, working from time to time, medical benefits), but no

significant ties in the form of personal property or real property (e.g., his son takes care of all expenses and he has small bank balances);

(iv) The Applicant has maintained significant ties to India (e.g., he uses an Indian passport indicating the address where he stays when he visits; he offered no evidence to support the claim that his interest in the ancestral home was gifted to his brother; his wife has several relatives remaining in India; trips back have involved family events such as marriages and deaths requiring observance of religious ceremonies; he continued to be involved with his Indian religious society and continued volunteer work during return trips);

(v) Return trips commenced within six months of landing and have continued at regular intervals and for extended periods, a fact the Applicant does not dispute (the Tribunal notes that this point is "of significance") and evidence explaining visits was at times inconsistent; and

(vi) Reasons for frequent and extended visits to India (e.g., marriages, deaths, affiliation with a religious society, visits to religious places, volunteer work) were all related to the Applicant's significant ties to India, which he maintained after coming to Canada, and in no case was there clear evidence as to why trips could not have been shorter or why they were as long as they were (e.g., in this regard, the Tribunal notes, for example, that there was "no evidence to support why he could not have returned to Canada in the interim" of the trip from June 1998 to May 1999 during which he performed two religious practices related to his father-in-law's death).

[20] At paragraph 73 of its decision, the Tribunal finds that since April of 2007, the Applicant has spent the majority of his time in Canada, with only one five month trip back to India from that time to date, and greater earnings than in any previous years; factors it found to be indicative of increased ties to Canada. The Tribunal concluded that the Applicant has been residing in Canada since April 2007 considering that he has some ties and has spent the majority of his time in the country since then.

[21] The Tribunal dismissed the Applicant's argument that his absences (except for the absence from October 2003 to June 2005) were each less than one year and should not have been considered to interrupt residence pursuant to paragraph 21(4)(a) of the *OASR*, holding that "in order for an absence to not interrupt residence, residence must be established in the first case, which has not occurred on the facts of this appeal" (Decision, para 74).

[22] For the same reason, the Tribunal dismissed the Applicant's claim that his absence from October 2003 to June 2005 should have been deemed not to interrupt residence under paragraphs 21(4)(c) and 21(5)(b)(vi) of the *OASR*, adding also that it does not accept that his work in India should qualify as "missionary", as he had not proven this claim with any documentation. The Tribunal goes on to note that "missionary" is undefined in the legislation but that it does not accept the Applicant's proposed definition, since common dictionary definitions suggest that propagation of a religion is a common attribute of a missionary assignment and that the Applicant was not sent by any organization in Canada to promote his religion in India.

[23] For all of those reasons, the Tribunal came to the conclusion that Mr. Singh was not residing in Canada from August 9, 1997 until April of 2007, and dismissed his appeal.

3. Issues

[24] The only issue raised by this appeal is whether the Review Tribunal committed a reviewable error of fact or law in determining that the Applicant did not reside in Canada from August 9, 1997 until April of 2007.

4. The legal framework

[25] Subsections 3(1) and 3(2) of the *OASA* explain the criteria to be met in order for one to collect either a full or partial OAS pension. It provides the following:

MONTHLY PENSION	**PENSIONS**
PENSION PAYABLE	***AYANTS DROIT***
Payment of full pension	**Pleine pension**
3. (1) Subject to this Act and the regulations, a full monthly pension may be paid to	3. (1) Sous réserve des autres dispositions de la présente loi et de ses règlements, la pleine pension est payable aux personnes suivantes :
(*a*) every person who was a pensioner on July 1, 1977;	*a*) celles qui avaient la qualité de pensionné au 1er juillet 1977;
(*b*) every person who	*b*) celles qui, à la fois :
(i) on July 1, 1977 was not a pensioner but had attained twenty-five years of age and resided in Canada or, if that person did not reside in Canada, had resided in Canada for any	(i) sans être pensionnées au 1er juillet 1977, avaient alors au moins vingt-cinq ans et résidaient au Canada ou y avaient déjà résidé après l'âge de dix-huit ans, ou encore

period after attaining eighteen years of age or possessed a valid immigration visa,

étaient titulaires d'un visa d'immigrant valide,

(ii) has attained sixty-five years of age, and

(ii) ont au moins soixante-cinq ans,

(iii) has resided in Canada for the ten years immediately preceding the day on which that person's application is approved or, if that person has not so resided, has, after attaining eighteen years of age, been present in Canada prior to those ten years for an aggregate period at least equal to three times the aggregate periods of absence from Canada during those ten years, and has resided in Canada for at least one year immediately preceding the day on which that person's application is approved; and

(iii) ont résidé au Canada pendant les dix ans précédant la date d'agrément de leur demande, ou ont, après l'âge de dix-huit ans, été présentes au Canada, avant ces dix ans, pendant au moins le triple des périodes d'absence du Canada au cours de ces dix ans tout en résidant au Canada pendant au moins l'année qui précède la date d'agrément de leur demande;

(*c*) every person who

c) celles qui, à la fois :

(i) was not a pensioner on July 1, 1977,

(i) n'avaient pas la qualité de pensionné au 1er juillet 1977,

(ii) has attained sixty-five years of age, and

(ii) ont au moins soixante-cinq ans,

(iii) has resided in Canada after attaining eighteen years of age and prior to the day on which that person's application is approved for an aggregate period of at least forty years.

(iii) ont, après l'âge de dix-huit ans, résidé en tout au Canada pendant au moins quarante ans avant la date d'agrément de leur demande.

Payment of partial pension

Pension partielle

(2) Subject to this Act and the regulations, a partial monthly pension may be paid for any month in a payment quarter to

(2) Sous réserve des autres dispositions de la présente loi et de ses règlements, une pension partielle est payable aux

every person who is not eligible for a full monthly pension under subsection (1) and	personnes qui ne peuvent bénéficier de la pleine pension et qui, à la fois :
(*a*) has attained sixty-five years of age; and	*a*) ont au moins soixante-cinq ans;
(*b*) has resided in Canada after attaining eighteen years of age and prior to the day on which that person's application is approved for an aggregate period of at least ten years but less than forty years and, where that aggregate period is less than twenty years, was resident in Canada on the day preceding the day on which that person's application is approved.	*b*) ont, après l'âge de dix-huit ans, résidé en tout au Canada pendant au moins dix ans mais moins de quarante ans avant la date d'agrément de leur demande et, si la période totale de résidence est inférieure à vingt ans, résidaient au Canada le jour précédant la date d'agrément de leur demande.

[26] Subsection 21(1) of the *OASR* explains the difference between "residence" and "presence" for purposes of OAS eligibility. It states:

21. (1) For the purposes of the Act and these Regulations,	21. (1) Aux fins de la Loi et du présent règlement,
(*a*) a person resides in Canada if he makes his home and ordinarily lives in any part of Canada; and	*a*) une personne réside au Canada si elle établit sa demeure et vit ordinairement dans une région du Canada; et
(*b*) a person is present in Canada when he is physically present in any part of Canada.	*b*) une personne est présente au Canada lorsqu'elle se trouve physiquement dans une région du Canada.

[27] Paragraphs 21(4)(a), 21(4)(c) and 21(5)(b)(vi) relate to absences from the country and how such absences impact residency. They state:

21. (4) Any interval of absence from Canada of a person resident in Canada that is	21. (4) Lorsqu'une personne qui réside au Canada s'absente du Canada et que son absence

(*a*) of a temporary nature and does not exceed one year,

…

(*c*) specified in subsection (5)

shall be deemed not to have interrupted that person's residence or presence in Canada.

21. (5) The absences from Canada referred to in paragraph (4)(c) of a person residing in Canada are absences under the following circumstances:

…

(*b*) while that person was employed or engaged out of Canada

…

(vi) as a missionary with any religious group or organization,

…

if he returned to Canada within six months of the end of his employment or engagement out of Canada or he attained, while employed or engaged out of Canada, an age at which he was eligible to be paid a pension under the Act;

…

a) est temporaire et ne dépasse pas un an,

…

c) compte parmi les absences mentionnées au paragraphe (5),

cette absence est réputée n'avoir pas interrompu la résidence ou la présence de cette personne au Canada.

21. (5) Les absences du Canada dont il est question à l'alinéa (4)c) dans le cas d'un résident du Canada sont des absences qui se produisent dans les circonstances suivantes:

…

b) lorsque ledit résident était engagé ou employé hors du Canada

…

(vi) à titre de missionnaire membre d'un groupe ou d'un organisme religieux,

…

si cette personne revient au Canada dans un délai de six mois après la fin de sa période d'emploi ou d'engagement hors du Canada, ou si elle a atteint, au cours de sa période d'emploi ou d'engagement hors du Canada, un âge la rendant admissible à une pension en vertu de la Loi;

…

5. Analysis

[28] The parties agree that the standard of review applicable to a determination of residency for the purposes of establishing an entitlement to and the quantum of an OAS pension is reasonableness: *Canada (Minister of Human Resources Development) v Chhabu*, 2005 FC 1277 at paras 23-24 [*Chhabu*]; *Kombargi v Canada (Minister of Social Development)*, 2006 FC 1511 at para 7; *Singer v Canada (Attorney General)*, 2010 FC 607 at para 18; *de Bustamante v Canada (Attorney General)*, 2008 FC 1111 at para 34 [*de Bustamante*]. As a result, the Court must determine whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and of the law: *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at para 47.

[29] There is no dispute between the parties as to the applicable legislation or regarding the appropriate legal test of residency to be applied. It is trite law that residency is a factual issue that requires an examination of the whole context of the individual under scrutiny: *Canada (Minister of Human Resources Development) v Ding*, 2005 FC 76 at paras 57-58 [*Ding*]. Intent does not equate to residence for the purpose of the *OASA*.

[30] There are several factors that may be considered in determining whether the residence conditions of the *OASA* have been observed: ties in the form of personal property; social ties in Canada; other fiscal ties in Canada (medical coverage, driver's license, rental lease, tax records, etc.); ties in another country; regularity and length of visits to Canada, as well as the frequency and length of absences from Canada; and the lifestyle of the person or his establishment here. See *de Bustamante*, above, at para 38; *Ding*, above, at para 57.

[31] The Applicant raises a number of arguments in his oral and written submissions to challenge the Tribunal's decision. In my view, four of these arguments deserve to be addressed. First, it is argued that the Tribunal put too much emphasis on the frequency of his trips to India; second, the Applicant submits that the Tribunal erred in questioning the validity of the transfer of his interest in the ancestral home to his brother, given that the Minister had not previously put the transfer of title in dispute or contested the Applicant's credibility; third, the Applicant contends that it was unreasonable for the Tribunal to require the Applicant to demonstrate ties to Canada in the form of personal or real property or to draw negative inferences from his small bank balances and dependence on his son in light of testimony and evidence regarding the Applicant's financial profile; and fourth, the Applicant argues that his absences could all potentially be justified under section 21 of the *OASR*, and it was therefore unreasonable to conclude, particularly in light of the Tribunal's acceptance of some demonstrated ties to Canada, that the Applicant has failed to establish any residence in Canada. I will now turn to each of these arguments in more detail.

[32] The Tribunal found, at paragraph 73 of its reasons, that it was more likely than not that the Applicant commenced residing in Canada in April of 2007, given that he does have some ties in Canada (e.g., earned more income in that year than he ever had in years prior) and has spent the majority of his time in Canada since then. The Applicant argues, on the other hand, that the only thing that has changed since April of 2007 is the frequency of his trips, and that the Tribunal's change in position suggests that it is treating that single factor as determinative, contrary to the rulings in *Ding*, above, and *D-55075 v Minister of Human Resources Development*, a decision of the Review Tribunal dated November 21, 2000.

[33] The Applicant's argument in this regard cannot succeed for two reasons. First, the Tribunal's comment that the Applicant earned more income after 2007 than he ever had in years prior belies the Applicant's submission that the change in frequency of trips was the sole factor motivating the change in position. While the income relied on for this assertion appears to be the 2008 and 2009 amounts of $14,797 and $15,001 and is only slightly more than his 2006 declared income of $12,382, it is not unreasonable for the Tribunal to note such a change, given that the Applicant claimed $15 or less in six of the years between 1997 and 2005 and the amounts claimed in 1998, 1999, 2000 and 2007 were respectively $1053, $1278, $3038 and $6983.

[34] More importantly, however, the cases cited by the Applicant cannot be taken to stand for the proposition that one residency factor cannot be considered determinative. At paragraph 57 of *Ding*, the Court cites previous jurisprudence holding that "[t]he length of stay or the time present within the jurisdiction, although an element, is not always conclusive" (emphasis added), and there is nothing in the OAS decision summary for *D-55075* to suggest that the frequency of trips could not be determinative. Indeed, one would think that with the concept of residency being factually driven, the actual presence in Canada and the frequency of one's absences from this country will in most cases be a crucial factor.

[35] Turning to the second point, the Applicant objects to the Tribunal's statement at paragraph 68 of its reasons that although the Applicant "says he gave his interest in the home to his real brother when he came to Canada, no further evidence was offered to support this statement". He argues that this statement constituted an error on the part of the Tribunal in light of his statements that he does not own property in Canada or India and the Minister's apparent acceptance of this

position, given that his credibility was not questioned. In *Chhabu,* above, the Court accepted as reasonable the Review Tribunal's finding that a family home in India used by Mrs. Chhabu (the respondent in that case) was not evidence of a greater connection with India, despite documentary evidence demonstrating that she shared title to the house with eight other family members.

[36] While it is no doubt true that the Applicant's credibility was not questioned by the Tribunal, the fact remains that the Applicant was aware that he faced the burden of establishing residency in Canada. Indeed, the respondent in *Chhabu* had filed documentary evidence to establish that the home in India was a shared property used by various family members when visiting India. In the case at bar, both Mr. Singh's current passport (issued in 2005) and his previous passport (issued in 1995) list the ancestral home in India as his address. Although it is arguable that this fact should not be held against him, the Applicant has not established that the question of title was a determinative factor in the Tribunal's conclusion. Even if it could be found that the Tribunal erred in questioning the validity of the transfer, it would not be sufficient, on its own, to render its decision unreasonable.

[37] The same can be said with respect to the third point listed above. To the extent that the Tribunal may be understood to have expected or implied that the Applicant should have had the financial means to obtain personal or real property in Canada, it would clearly be unreasonable in light of the consistency in his statements throughout that he had depleted his finances in order to support his son in Canada and treated his investment in his son as a retirement plan. While the Tribunal might have questioned how the Applicant then had the means to travel back and forth to India and the United States so many times, it did not do so and the Applicant indicates in his

affidavit that he is not entitled to (nor does he receive) any pensions or income supplements in India and has relied on his son to fund his travels and those of his wife.

[38] A careful reading of the Tribunal's reasons, however, shows that it is more likely than not that the Tribunal was merely attempting to work through a list of possible factors that could demonstrate ties to Canada. Even if it could be said that the Tribunal erred in this respect, such an error would not be sufficient to establish that there is no line of reasoning that could lead to the Tribunal's overall conclusion. The fact that the Applicant does not own personal or real property was not a critical factor in the decision reached by the Tribunal. In any event, even combined errors regarding the ancestral home and the absence of property in Canada would not be sufficient to render the decision unreasonable.

[39] Finally, the Applicant's argument that his absences from Canada should not interrupt his residence because he was a "missionary" pursuant to paragraphs 21(4)(c) and 21(5)(b)(vi) is misplaced. In order for an absence to not interrupt residence, residence must be established in the first place; the facts did not support such a finding in the Applicant's case. The numerous, regular and lengthy trips to India, combined with the significant ties the Applicant has continued to maintain in India all support the Tribunal's conclusion that the Applicant more likely than not did not ordinarily make his home and reside in Canada from August 9, 1997 up until April of 2007.

[40] Had the Applicant filed more evidence tending to show that he was on "missionary" assignments when staying in India, the decision could conceivably have been different. The Tribunal noted that the term "missionary" is not defined in the *OASA* or *OASR*, but found that a

common attribute of a missionary assignment is that one has been sent from their home country to another country to propagate a religion. It may well be, as argued by the Applicant, that the Sikh faith calls its followers to do missionary work and that it is not necessary for an organization or entity to send someone to do missionary work, particularly as the Regulations refer to work "as a missionary with any religious group or organization" (emphasis added). Yet, as conceded by counsel for the Applicant at the hearing, it was reasonable for the Tribunal to conclude as it did on missionary work in the absence of evidence on this matter.

6. Conclusion

[41] Although the Applicant claims that the Tribunal did not examine his ties to Canada in sufficient detail, I ultimately agree with the Respondent that the Tribunal's reasons were, for the most part, justified, transparent and intelligible and the Applicant has failed to convince me that its decision falls outside the range of possible, acceptable outcomes which are defensible in respect of the facts and the law or that there is no possible line of reasoning connecting the evidence to the Tribunal's ultimate conclusion. The Applicant could no doubt reapply for OAS and file further evidence with respect to missionary work, but on the record that was before the Tribunal, it cannot be said that it was a reviewable error to conclude that no such work was established.

[42] For all of the foregoing reasons, this application for judicial review is dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed.

"Yves de Montigny"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-5-12
STYLE OF CAUSE:	GURNAM SINGH v THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	Calgary, Alberta
DATE OF HEARING:	January 10, 2013
REASONS FOR JUDGMENT AND JUDGMENT:	de MONTIGNY J.
DATED:	April 26, 2013

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