IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

CIV 2008-404-008225

UNDER	Section 117 of the Immigration Act 1987
IN THE MATTER OF	an appeal pursuant to s 117 of the Immigration Act 1987 against a decision of the Deportation Review Tribunal
BETWEEN	BHARATIBAHEN JASHUBHAI PATEL Appellant
AND	THE DEPORTATION REVIEW TRIBUNAL First Respondent
AND	THE MINISTER OF IMMIGRATION Second Respondent

Hearing: 22 April 2009

Counsel: M Clark for the appellant
V Casey for the respondent

Judgment: 16 June 2009 at 3 p.m.

JUDGMENT OF POTTER J

In accordance with r 11.5 High Court Rules
I direct the Registrar to endorse this judgment
with a delivery time of 3 p.m. on 16 June 2009.

Solicitors: Vallant Hooker & Partners, P O Box 47088, Auckland 1144
Crown Law, P O Box 2858, Wellington 6140

TABLE OF CONTENTS

Introduction

[1] The appellant, Bharatibahen Jashubhai Patel, appeals against the decision of the Deportation Review Tribunal ("the Tribunal") dated 14 November 2008 ("the decision") which dismissed the appellant's appeal against revocation by the Minister of Immigration of her residence permit on 15 February 2006. The second respondent, the Minister of Immigration, filed a notice of intention to appear and was heard in opposition to the appeal.

[2] The notice of appeal alleges the following errors of law in the Tribunal's decision:

1. The finding that the appellant's residence application was lodged under the Family (Dependent Child) category;

2. The way the Tribunal held the fraud of the appellant's mother against the appellant;

3. As to the inevitability of the consequences of the fraud;

4. The decision overall was manifestly unreasonable.

Statutory scheme : approach on appeal

[3] Section 20 of the Immigration Act ("the Act") sets out the grounds on which the Minister may revoke a residence permit. In this case the relevant provision was s 20(1)(c):

> The Minister may at any time revoke a residence permit on any of the following grounds, but no other:
>
> …
>
> (c) that the permit … was granted to a person who had been a holder of a visa or another permit procured by fraud, forgery, false or misleading representation, or concealment of relevant information.

[4] Following a submission dated 30 October 2006 for revocation of the appellant's residence permit, the Minister of Immigration revoked the permit on 8 November 2006.

[5] The Act provides parallel rights of appeal from a revocation decision. Under s 21, there is a right of appeal to the High Court. If, but only if, satisfied that the permit was not procured by fraud, forgery, false or misleading representation or concealment of relevant information, this Court may quash the revocation.

[6] This is not the appeal route the appellant adopted. The appellant pursued the alternative route under s 22 of the Act which was to appeal on humanitarian grounds to the Tribunal. Under s 22(5) the Tribunal shall not confirm the revocation of a residence permit if it is satisfied that it would be unjust or unduly harsh for the appellant to lose the right to be in New Zealand indefinitely. The Tribunal has a wide discretion but must have regard to the factors set out in s 22(6).

[7] There is no right of appeal from a decision of the High Court under s 21 which is essentially a decision on the facts. There is a further right of appeal from a decision of the Tribunal under s 22, but only on a point of law: s117. The decision of the High Court on appeal is final.

[8] Section 117 of the Act confers a right of appeal against a determination of the Tribunal if that determination was erroneous in point of law.

[9] On appeals on a question of law, the Supreme Court said in *Bryson v Three Foot Six Limited* [2005] 3 NZLR 721 at [25]:

> An appeal cannot, however, be said to be on a question of law where the fact-finding Court has merely applied the law which it correctly understood to the facts of the individual case. It is for the Court to weigh the relevant facts in light of the applicable law. Provided that the Court has not overlooked any relevant matter or taken account of some matter which is irrelevant to the proper application of the law, the conclusion is a matter for the fact-finding Court, unless clearly unsupportable.

[10] Ms Casey, counsel for the Minister of Immigration, correctly differentiated between an appeal under s 117 of the Act on a point of law, and a general appeal to

which the principles laid down by the Supreme Court in *Austin, Nichols & Co Inc v Stitchting Lodestar* [2007] NZSC 103 apply.

[11] Because the appeal to the Tribunal was on humanitarian grounds under s 22, it will be helpful to set out the matters to which the Tribunal must have regard under s 22(6) in reaching its decision on an appeal under s 22. Section 22(6) provides:

> In determining any appeal under this section, the Tribunal shall have regard to the following matters:
>
> (a) the appellant's age;
>
> (b) the length of time during which the appellant has been in New Zealand lawfully;
>
> (c) the appellant's personal and domestic circumstances;
>
> (d) the appellant's work record;
>
> (e) the grounds on which the permit was revoked;
>
> (f) the interests of the appellant's family;
>
> (g) such other matters as the Tribunal considers relevant.

[12] Section 22 (6)(f) brings into account New Zealand's obligations under the United Nations Convention on the Rights of the Child and the International Covenant on Civil and Political Rights Relating to the Rights of Children, that they are not to be subject to arbitrary or unlawful interference with their family: See *Puli'uvea v Removal Review Authority* (1996) 14 FRNZ 322 (CA), *Prasad v Deportation Review Tribunal* HC AK CIV 2007-404-8059 and *Minister of Immigration v Al-Hosan* [2008] NZCA 462. The Tribunal must have regard to the interests of the children as a primary, but not paramount, consideration.

[13] In *Prasad* Lang J said at [52]:

> Section 22 is obviously designed to ensure that relief can be given in cases where departure from New Zealand will produce harsh effects that go beyond those that such an act may be anticipated to produce. The use of the words "unduly harsh" sets the benchmark at which the Tribunal is required to intervene by not confirming the Minister's decision. It is unable to intervene unless it has identified factors indicating that the effects of removal will be harsher for the appellant than would ordinarily be the case. Even then, the Tribunal will need to be satisfied that removal from New Zealand will be "unduly" harsh before it may interfere with the decision.

Factual background

[14] The factual background is set out in the decision. The following summary is adapted from the decision.

[15] The appellant is an Indian national. She was born in the village of Machad near Jalalpore town in Navsari District, Gujarat on 29 December 1978. She is married and has two children, aged seven and three at the time of the decision. The family lives in New Zealand as does the appellant's mother and her only sibling, a brother who is some eighteen months younger than the appellant.

[16] On 28 October 1999 the appellant's mother applied for residence in New Zealand under the Humanitarian category of residence policy. The appellant's brother was included in his mother's application because at the time of the application he was aged nineteen years and was a dependent, as then defined by the Family (Dependent Child) Policy which was in force from 26 July 1999. The appellant was too old to come within that policy.

[17] On 27 March 2000, the appellant married Vinod Patel in a traditional Indian wedding ceremony but the marriage was not officially registered until 20 September 2003.

[18] On 12 August 2000 the appellant's mother was interviewed by an immigration officer in India. It is recorded that she told the officer she had one son and a daughter (the appellant) who was unmarried. She stated that the appellant would remain in India and she would not apply for a visa for the appellant who would be looked after by other family members. The mother would "get her married once I am settled myself".

[19] On 9 February 2001 the appellant gave birth to her first child, a daughter.

[20] In approximately May 2001, about a year after her marriage, the appellant became depressed and moved back to live with her mother and brother. The

couple's daughter born in February 2001 continued to live with her father and the appellant visited regularly.

[21] In July 2001 the mother's residence in New Zealand was approved and she and the appellant's brother moved to New Zealand. The appellant moved to live with an aunt.

[22] On 1 October 2001 the Family (Dependent Child) Policy was changed. An applicant would meet the criteria if aged 17-24 with no child(ren) of their own, single, totally or substantially reliant on an adult for financial support, and their parents were lawfully and permanently in New Zealand.

[23] At the time the policy was changed the appellant was aged 22. She lodged an application for residence in her own name, as a dependent child. The application stated that she had never been married and under the section of the application form where the names and particulars of children were to be listed, the entry was "N/A". The application was filed by a Tika Ram an immigration consultant in New Zealand. He described the relevant policy as "Left Alone In Own Home Country Policy". As the Tribunal observed in its decision there was no such policy. The Tribunal considered it was clear that the application was lodged under the Family (Dependent Child) category.

[24] The appellant's application was approved. Immigration New Zealand accepted on the basis of the information provided by the appellant that she was:

a) Aged 17-24, with no children of her own;

b) Single; and

c) Totally or substantially reliant on her mother for financial support.

[25] The appellant arrived in New Zealand on 26 July 2002 and lived with her mother and brother. They were staying with the appellant's paternal aunt in Auckland. She soon found work.

[26] In late 2003 the appellant's husband, Vinod Patel, applied for a work visa. The couple's daughter was included in the application. The application was granted in December 2003 and the husband and daughter arrived in New Zealand on 24 January 2004. They commenced living with the appellant and her mother. Mr Patel also promptly found work.

[27] On 20 April 2004 Mr Patel lodged an application for permanent residence on the grounds of his marriage to the appellant. Shortly afterwards, Immigration New Zealand began reviewing the grant of residence to the appellant, the inquiry which ultimately led to the revocation of her residence permit by the Minister on 8 November 2006. Mr Patel's residence application was suspended. He holds a work permit and the daughter holds a student permit.

[28] On 12 March 2005, the couple's second child was born in New Zealand, a son.

[29] On 11 December 2006 the appellant lodged an appeal with the Tribunal against the revocation of her permit under s 22 of the Act. On 14 November 2008 the Tribunal issued its decision refusing to quash the revocation of the appellant's residence permit and dismissing her appeal. It is that decision which is the subject of the appeal to this Court, filed on 9 December 2008.

The decision

[30] The decision states that the appeal was brought under s 22 of the Act against the revocation of the appellant's permit by the Minister of Immigration.

[31] It refers to the discretion vested in the Tribunal by s 22(4) of the Act to confirm or quash the revocation of a residence permit "as it thinks fit", and that the discretion conferred by s 22(4) is subject to s 22(5) which directs the Tribunal not to confirm the revocation of the residence permit if:

> … it is satisfied that it would be unjust or unduly harsh for the appellant to lose the right to be in New Zealand indefinitely.

[32] The decision records the factors the Tribunal is required by s 22(6) to consider (refer [11] above). It notes that the factors to be considered are not necessarily limited to those set out in s 22(6), though in many cases those will be the only relevant factors: *Minister of Immigration v Al-Hosan*.

[33] The Tribunal says the starting point for its consideration was the fraud or other grounds on which the permit was procured and the degree of culpability involved: *Ansell v Minister of Immigration* [2001] NZAR 999 at [29] and [42]-[43]. The Tribunal notes that a balancing exercise is required, weighing the seriousness of the fraud or other grounds giving rise to the revocation, with the humanitarian factors favouring remaining in New Zealand. The Tribunal also notes the need to have regard to New Zealand's international obligations referred to in [12] above.

[34] The decision records that the Tribunal heard evidence from the appellant, her mother and her husband, and summarises the relevant evidence.

[35] The Tribunal then details the circumstances of this case under each of the criteria in s 22.

[36] The Tribunal notes that the essential ingredients of the Family (Dependent Child) Policy both at the time of the mother's application and at the time of the appellant's own application, were that the applicant be single and have no children. The decision records that the appellant was not single at the time of her application and that she had a child. The Tribunal states at [50]:

> There is no doubt that the appellant was granted a residence permit on the basis of false or misleading information. That conclusion is inescapable.

[37] At [51] the appellant's explanation for providing false or misleading information "inadvertently", is referred to:

a) At the time she was separated from her husband and had left her child with him. As a result she regarded herself as single, without a child.

b) Tika Ram, the immigration agent in New Zealand, had been wrongly given the impression by the appellant's uncle and mother that she (the

appellant) was single, without a child. He had completed the appellant's residence application accordingly.

c) The appellant had received the completed form and had signed it without reading it and without realising that it contained incorrect information.

[38] The Tribunal says at [52]:

> That explanation does not withstand scrutiny.

It then gives the reasons for reaching that conclusion.

[39] The Tribunal refers first to "the pretence" that the appellant was single having begun well before she separated from her husband in May 2001. In August 2000 her mother told the immigration officer that her daughter was single and they would be arranging a marriage for her in due course. The Tribunal refers to the mother's response to that situation given in evidence: that she first denied having told the immigration officer those things but then amended her evidence to state, "glibly", that "Nobody says anything to things in India, so I said no". The Tribunal found at [53]:

> We are satisfied that she well anticipated that an acknowledgement of the appellant's marriage at that stage might prove fatal to any later application under the Family (Sibling and Adult Child) category for which being single and with no children were, at that time, also requirements.

[40] The Tribunal further concludes that, contrary to a submission made by Ms Clark for the appellant, it was satisfied the appellant's application was not being advanced under the Family (Sibling and Adult Child) Policy but under the Family (Dependent Child) category and that the appellant's claimed single status and childlessness were crucial elements: at [56]. The Tribunal accepted that at the time of the appellant's application in December 2001, the Family (Sibling and Adult Child) Policy did not require the appellant to be single and without children, but said it was equally clear the appellant would not have met the terms of that policy in several respects, including that she did not have a suitable sponsor, nor an offer of employment of any description, in New Zealand.

[41] Secondly, the Tribunal says it was implausible and incomprehensible that all three of the appellant, her mother and her uncle would have chosen to regard her as being single without child, even if any one of them might have erroneously formed the view that her separation meant she was single, and without child merely because she had informally given up custody of her daughter.

[42] Thirdly, the Tribunal found the appellant's claim to have been ignorant of the contents of the application form completed by Tika Ram to be "untenable" when viewed in the light of her medical certificate. That document, completed by a doctor in India on the advice of the appellant herself, recorded the same false information as on the application form. It was also false in recording that she had never suffered from any illness or nervous or mental illness or any abnormality of mental functions. Yet the appellant claimed that post-natal depression had caused the recent breakdown of her marriage.

[43] The Tribunal says at [58]:

> It is clear that the appellant well knew the deceit that was being perpetrated.

[44] Fourthly, the Tribunal refers to the husband's residence application based on his marriage to the appellant, not seeking to clear up the obvious inconsistency with her application in 2001, which was based on her status as a single woman.

[45] Finally, the Tribunal refers to the inconsistent explanations advanced by the appellant for her claim to have been single: for example she claimed in her revocation interviews to have been "legally" married only in September 2003, relying on that being the date of the marriage certificate. The Tribunal said at [60]:

> The falsity of that claim is, of course, revealed by the reference in the certificate to the actual date of the marriage as 27 March 2000.

[46] The Tribunal concludes at [61]:

> Taken cumulatively, the foregoing factors satisfy us that the false and misleading information in the appellant's residence application – to the effect that she was single and without children – was knowingly presented by her.

[47] The Tribunal then considers the interests of the appellant's family. The Tribunal says at [64]:

> … the obligation to respect family unity does not extend to circumstances in which revocation would be proportional to the ends sought and necessary in the circumstances of the case. The ends sought are the integrity of the immigration system and public confidence in New Zealand's immigration processes and outcomes – in particular, the ability to rely on applicants to be truthful and to make full disclosure of relevant information.

[48] The Tribunal notes at [66] that if the appellant's residence is revoked it would mean she would be separated from her mother and brother and that those were important aspects:

> … tempered by the reality that they both left the appellant in India in July 2000, without any assurance that she would be able to join them here.

[49] The Tribunal also says it was satisfied the mother was a knowing party to the appellant's fraud.

[50] As to the appellant's immediate family, the Tribunal says that the ability of the husband and the daughter to remain in New Zealand depended entirely on the success of the appellant's appeal. Otherwise their relationship to the appellant as a New Zealand resident collapses, and they will have no right to remain here. The Tribunal says at [69]:

> Thus, no issue of disruption to the family unit arises at least in respect of the husband and the daughter.

[51] The Tribunal notes that the appellant's son, born in New Zealand, has a right to remain here and that remaining here would provide him with a better standard of living and education. But, as with the daughter, the interests of the son were also best served by him remaining with his parents. The evidence did not establish that either the standard of living or education in Gujarat was so significantly poorer than in New Zealand that the appellant would be compelled to leave her son here and have him separated from his parents.

[52] In conclusion, the Tribunal says that the fraud on which the appellant's residence permit was procured, was the starting point, because she would not have

obtained permanent residence in New Zealand had she not falsely represented that she was single and without children. As to the degree of her culpability, the Tribunal was satisfied that the appellant well knew of the false information in her residence application. Balancing the clear fraud by which the appellant obtained her residence permit against the humanitarian circumstances in the case, the Tribunal concludes it was not unjust or unduly harsh for the appellant to lose her right to reside in New Zealand. The Tribunal states at [87]:

> The integrity of New Zealand's immigration system outweighs the upheaval for the appellant and her family that her return to India would entail.

[53] The appeal was dismissed.

First ground of appeal : error of law - appellant's residence application lodged under the Family (Dependent Child) category

[54] The Tribunal found as a fact that the appellant's application was lodged under the Family (Dependent Child) Policy. At [55] of the decision the Tribunal said:

> Ms Clark also submits that the appellant's application does not expressly refer to the Family (Dependent Child) Policy and it may have been intended to be brought under the Family (Sibling and Adult Child) Policy. We disagree.

[55] The Tribunal then gave its reasons for that finding. It appears that the appellant's challenge to this factual finding is to support a challenge to the finding of the Tribunal as to the degree of culpability of the appellant in her conduct in relation to her application for a residence permit. Counsel submitted that the Tribunal failed to take into consideration and give proper weight to the fact that the appellant does not speak and understand English, and that therefore she was not responsible for the inaccurate answers given in her application form. Further, that on the basis the application was under the Family (Sibling and Adult Child) category her culpability was not as high as the Tribunal found because that policy does not require the applicant to be single, nor to be childless.

[56] The appellant's submissions claimed reliance on such matters as Tika Ram's covering letter with the appellant's application dated 3 December 2001 referring to the "Left Alone In Own Home Country Policy". It was submitted this looked more like a reference to the Family (Sibling and Adult Child) Policy. Also to a reference of the presiding member during the hearing, that the application was originally treated as an inadequate Family (Sibling and Adult Child) Policy application when received on 20 December 2001 but the next day recorded as lodged under the Family (Dependent Child) category. (The case notes of the immigration officer recorded:

> She is single and I do not doubt this information. I have x checked the family declared by her with the family declared by her sponsor. Will approve this application once the meds are cleared by the CP).

[57] However, as counsel for the Minister of Immigration submitted, these matters completely miss the point that the appellant did not meet the requirements of the Family (Sibling and Adult Child) Policy and she could not have obtained residence under it. She did not have an acceptable offer of employment in New Zealand. She had no sponsor and there is no suggestion that she could have met the income requirements for an applicant with a dependent child. Her application did not even attempt to address the employment and income requirements of this policy.

[58] Further, under whatever policy the appellant was intending to apply, Section A of the form for "Application for Residence in New Zealand", requires the completion of personal details. In this section, the appellant notified that she was "never married". Under question 15 which requires details of "All your family, whether migrating with you or not", the appellant answered in respect of children, "N/A". She did not complete any details of her spouse or in respect of her child.

[59] Attached to the application form, as required, was a medical certificate completed by her doctor. The false information in the application form was repeated in this certificate which was certified by Dr. V.J. Kinariwala. The medical certificate also included the incorrect information that the appellant had not visited a doctor in the last three years. The appellant said in evidence, that she provided the information in her own language which the doctor then wrote in English.

[60] It was well open to the Tribunal to find that the application was lodged under the Family (Dependent Child) residence category, and to assess the culpability of the appellant on the basis of the false answers she gave to the straightforward questions in the personal details section of the application form. Even if the Tribunal had been prepared to accept the appellant's explanation that she did not know what she was signing, that would not have absolved her from culpability. She could not divest herself of, or minimise her responsibility in that way. The integrity of the immigration system depends on applicants' honesty and voluntary compliance with immigration requirements.

Second and third grounds of appeal : error in law - holding the fraud of the appellant's mother against the appellant and the inevitability of the consequences of fraud

[61] I deal with the second and third grounds of appeal together as that is the way they were addressed in the appellant's submissions.

[62] I consider these grounds of appeal together, since they were so addressed in the appellant's submissions.

[63] The written submissions for the appellant stated that the Tribunal was wrong in law not to accept the appellant's explanation that she had not deliberately misled the Immigration Service, and in finding the false information she was single and without children, was knowingly presented by her.

[64] This, of course, was a credibility finding by the Tribunal. Ms Clark accepted in the course of the hearing that this was could not be advanced as an error of law.

[65] However, counsel made submissions under the label of the "conspiracy theory", referring to the statement by the Tribunal at [53] of the decision that:

> … the pretence that the appellant was single began well before she claims to have left her husband in May 2001.

[66] The appellant submitted the Tribunal attributed the mother's falsehood to the daughter.

[67] In determining whether the appellant had made false and misleading statements in relation to her application for a residence permit, the Tribunal considered a number of possibilities:

a) She did not know what she was signing because neither the immigration agent in India or the doctor who completed the medical certificate translated the forms or checked that the answers were correct, and she did not ask what the forms said before she signed them.

b) She considered herself single and childless because of a separation from her husband and his temporary custody of the child (although she visited him frequently).

c) She knowingly allowed the application to be made on the basis of untrue and incorrect information.

[68] The Tribunal found the third of these possibilities was the correct one.

[69] In examining the evidence upon which the Tribunal based its ultimate credibility findings in respect of the appellant, the Tribunal referred to a number of factors which are set out in its decision and summarised in [38] to [46] above.

[70] The Tribunal was called upon to assess the credibility of the appellant and to determine whether she had made an application which included false and misleading statements. Consideration of the mother's evidence, her statements made in the year 2000 and her explanations about those statements given in evidence, were all part of the Tribunal's overall assessment of the appellant's credibility, and her explanation as to why her application included untrue statements. No "conspiracy theory" was involved.

[71] The Tribunal heard evidence from the appellant and her mother and both had the opportunity to fully explain their positions and to support their explanations before the Tribunal. The mother was given specific opportunity to explain why she

answered "No" to the question about whether her daughter was married. As the Tribunal noted, she first denied giving that information and then simply said "Nobody says anything in India, so I said no". There was no "conspiracy theory" to put to the mother. The Tribunal listened to the mother's evidence, ensured she had full opportunity to provide explanations and answer questions, and then considered her evidence along with the evidence of the appellant, in determining whether the appellant made false statements in her application for a residence permit. That was a specific finding of the Tribunal clearly available to them.

Fourth ground of appeal : decision was manifestly unreasonable

[72] The appellant submitted the Tribunal failed to take into consideration and afford proper weight to the fact that the appellant now qualifies for residence pursuant to the Policy.

[73] This submission has no merit. An appellant's current eligibility, or lack of it, for a residence permit is not one of the factors the Tribunal must consider under s 22(6). Nor would qualification for residence now necessarily render it "unjust or unduly harsh" to uphold the Minister's revocation of the appellant's residence permit under s 22(5). It appears this was not a matter that received any emphasis before the Tribunal. But in any event, as Simon France J said in *Mirza v Minister of Immigration* HC WN CIV 2009-498-000120 at [27]:

> Second, I agree with Ms Casey, that Mr Mirza's current eligibility to apply for a work permit was not a matter that was relevant to the Tribunal decision. The Tribunal had to consider whether, in light of the statutory criteria and its discretion, it should overturn the Minister's revocation. Although the matters it can take into account are broad, I see no basis on which Mr Mirza's current immigration capacity would affect that.

[74] I agree. The Tribunal had to consider whether it should overturn the Minister's revocation of the appellant's residence permit on the basis it had been obtained by false and misleading information. One of the considerations for the Tribunal in the exercise of its general discretion under s 22(4) of the Act is the integrity of New Zealand's immigration laws and policies in which honesty in acquiring permits is an important objective of the Act. The appellant's current

eligibility, if it exists, is not a factor relevant to those considerations. Further, it would appear that her qualifications for residence as detailed at [39] of the written submissions of the appellant, rely at least to some extent on the fact she was able to gain a residence permit in New Zealand and obtain employment here, a situation achieved on the basis of the false and misleading information she provided in seeking her residence permit in the first place.

[75] Nor can the Tribunal be criticised for failing adequately to consider the disintegration of the family unit or focus on the interests of the appellant's children, as was submitted for the appellant. The Tribunal gave careful consideration to the situation of the family as a whole and its individual members. The appellant's residence permit has been revoked. Mr Vinod Patel's work permit expires on 19 June 2009 and he will thereafter have no right to stay in New Zealand. As he stated in his brief of evidence filed with the Tribunal:

> If Bharatibahen is deported I will also have to leave New Zealand and we will take the children with us.

[76] The family will need to move as a unit, although the son born in New Zealand will have the opportunity, if he so wishes, to return at a later date.

[77] The Tribunal considered the mandatory factors under s 22(6). It weighed carefully the competing considerations, including the interests of the children and the family as a whole. Issues of weight are for the Tribunal, not for this Court on an appeal on a question of law. The Tribunal considered all relevant matters and did not take into account any irrelevant matters. This ground of appeal must also be dismissed.

Result

[78] All grounds of appeal fail. The appeal is dismissed.