



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/01729/2014

THE IMMIGRATION ACTS

Heard at Bennett House, Stoke
On 11th December 2014

Decision & Reasons Promulgated
On 30th January 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE GARRATT

Between

DAVID SARFRAZ
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Mahmoud, Counsel instructed by Lawrence Lupin Solicitors
For the Respondent: Ms C Johnstone, Senior Home Office Presenting Officer

DECISION AND REASONS

1. In a renewed application to the Upper Tribunal, permission was granted on 14th October 2014 by Upper Tribunal Judge Allen to the appellant to appeal against the decision of Judge of the First-tier Tribunal Mathews in which he dismissed the appeal on all grounds against the decision of the respondent to refuse asylum, humanitarian and human rights protection to the appellant, a citizen of Pakistan.

2. In granting permission Upper Tribunal Judge Allen thought that, in the light of an expert's conclusion that a First Information Report (FIR) and an arrest warrant were genuine, the judge had not given sufficient reason for his conclusion that he did not accept the credibility of the appellant's claims.
3. When making their application, the recently appointed representatives argued that their fresh application to the Upper Tribunal should be regarded as incorporating new grounds and not a renewal of the original application. Their grounds argue that the judge fell into error by failing to take into consideration the significance of any "lies" in the appellant's claims which could be saved by "extremely strong" general evidence. In support of this argument they quote *MA (Somalia)* [2010] UKSC 49. Additionally, the respondent had accepted that the appellant was a Christian and so the only remaining question was whether or not he was subject to a blasphemy allegation when the expert report concluded that the FIR and arrest warrant produced by the appellant were genuine. It is also contended that it was wrong for the judge to take into consideration an alleged deception in the appellant's student visa application.
4. In submissions before me Mr Mahmoud confirmed that he relied upon the grounds I have summarised above. He emphasised that the appellant was accepted to have been a Christian from birth. Apart from the expert evidence and FIR he pointed out that there was also information from a High Court advocate in Pakistan to support the appellant's claim. He also argued that the appellant had outlined his asylum claim in screening interview which suggested that the judge was wrong to take issue with the appellant's entry into the United Kingdom as a student before claiming asylum (although it is difficult to see how this contention can be right when the appellant entered the United Kingdom with a valid student visa on 14th January 2014 and, after requesting an appointment at the Asylum Screening Unit at Croydon on 29th January 2014, did not make his asylum claim until 15th February 2014, the date of the screening interview).
5. Mr Mahmoud also contended that the judge had wrongly made his own assessment of the position in Pakistan in paragraph 27 about the appellant's claim to have been advised to abscond by the advocate of the High Court in the face of judicial documents and an arrest warrant. The judge had wrongly concluded that such advice would involve a breach of the law in Pakistan which required the appellant to submit to a warrant for his arrest.
6. Ms Johnstone confirmed that the respondent relied upon the response dated 5th November 2014 in which it is emphasised that the judge's findings showed that, for reasons given, he had found the FIR and arrest warrants to be unreliable because he did not accept that they had been obtained in the way claimed. Additionally, the judge had made several other adverse credibility findings and these remained unchallenged by the application for permission to appeal.
7. In conclusion Mr Mahmoud submitted that the judge should have considered the objective material put before him before reaching his conclusions and before finding irregularity in the appellant's visa application which might have led to the application of Section 8 of the Asylum and Immigration (Treatment of claimants, etc.) Act 2004. He also contended that the response, sent on 5th November 2014, appeared to be significantly out of time when the application to the Upper Tribunal had been made on 1st August 2014.

Conclusions

8. Even if the respondent's application can be considered to be out of time the points which it makes have been repeated and relied upon by the respondent in the hearing before me and so I take them into consideration.
9. The determination is comprehensive and cogently argued. The judge acknowledged that the respondent had accepted that the appellant was a Christian but found significant inconsistencies in the appellant's evidence which led him to conclude that his claim to have been accused of blasphemy for dropping a leaflet handed to him by Imams coming to his church was not to be believable. I summarise these other findings as follows.
10. The judge pointed out that the appellant had been significantly inconsistent when giving information about the numbers attending the Christian gathering at which Muslim leaflets were distributed. The judge was also entitled to conclude that the mode of escape described by the appellant and the fact that he returned to his home address on the following day, was unlikely and at odds with the appellant's claim to have been targeted by extremists. Attention is also drawn to the inconsistency in the appellant's claim about disclosure of his uncle's address (to where he had fled) by the pastor at a Christian church when there was there no way of that pastor knowing where the appellant had fled to. Other inconsistencies pointed out by the judge include the appellant's willingness to return to Lahore when he and his father were too frightened to tell the police about his assailants. The judge was entitled to conclude that the purpose of the visit to Lahore was actually to enable the appellant to obtain his student visa when studying was not the real intention of his visit. Further, it was open to the judge to conclude that the appellant's appointment of a solicitor in Lahore was inconsistent with his statement in interview that he thought that nothing would come of events and his problem would be solved. The judge was also entitled to find the appellant's failure to claim asylum on arrival at odds with the action he had taken in Pakistan to ensure that he could leave the country for his own safety.
11. It is clear that the judge did not reach his conclusions without consideration of the documentary evidence and expert report provided which, as paragraph 25 of the decision notes, were considered alongside the other evidence. The judge was prepared to accept that the form of the FIR and arrest warrant were as would be expected of genuine documents, but was entitled to comment on the absence of an explanation of how the appellant's lawyer could obtain a copy of the FIR when it was not a routinely available document. It is plain that the judge gave careful consideration to the documents against the information contained in the expert report which, he acknowledged, might have suggested that the appellant would have been in a very perilous position if accused of blasphemy. The judge was, however, able to rely upon the other inconsistencies which I have summarised to reach the conclusion that the documentary evidence produced was not reliable and the appellant could not be regarded as a credible witness. Although the judge does not specifically refer to the guidance set out in *Tanveer Ahmed* [2002] UKIAT 00439 it is evident that he gave consideration to the reliability of the documents produced against the background of all of the evidence. His approach to the matter is explained in paragraph 29.

12. For all the above reasons the decision does not show that the judge's adverse credibility findings were not open to him. On this basis the decision does not show an error on a point of law particularly as specified in the grounds of application before the Upper Tribunal.

Notice of Decision

The decision of the First-tier Tribunal does not show an error on a point of law and shall stand.

Anonymity

The First-tier Tribunal did not make an anonymity direction nor do I consider it appropriate to make one in the Upper Tribunal.

Signed

Date

Deputy Upper Tribunal Judge Garratt