



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/10462/2015

**THE IMMIGRATION ACTS**

**Heard at Liverpool**

**On 18<sup>th</sup> August 2017**

**Decision & Reasons  
Promulgated  
On 20<sup>th</sup> September 2017**

**Before**

**UPPER TRIBUNAL JUDGE KING TD**

**Between**

**HAJI MOHAMMAD HASSAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr P Draycott, of Counsel, instructed by Hoole & Co Solicitors

For the Respondent: Mr C Bates, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Afghanistan who claimed asylum upon arrival in the United Kingdom in June 2014. That claim was refused by the respondent in a decision dated 8<sup>th</sup> July 2014.
2. Thereafter a number of hearings and applications were to follow. Eventually the appeal came before the First-tier Tribunal for hearing on 12<sup>th</sup> January 2017 and 21<sup>st</sup> February 2017. In a determination promulgated

shortly afterwards, First-tier Tribunal Judge Chambers dismissed the appeal in all respects.

3. The appellant, although born in Afghanistan, spent most of his adult life working in Pakistan. In 1982 he was employed at the headquarters of Hezbi-Islami and worked with them first of all as a secretary and typist, then to work in connection with the welfare of refugees.
4. He was also self-employed working as an agent for travel and tour companies for Afghan nationals. It was this job which came to the attention of the Taliban, who issued threats against the appellant. In particular, three threatening letters were sent in the period April 2014 and June 2014. On receipt of the fourth threatening letter in October 2014 the appellant fled to the United Kingdom.
5. The First-tier Tribunal Judge took as a starting point the previous determination of the matter by the First-tier Tribunal. The account of the appellant as to receiving the letters was not found to be credible. In the alternative, internal relocation was possible. The Judge did not accept the credibility of the employment. It was not accepted that the appellant was facilitating travel of young men and women to the west. Little weight was placed upon the threatening letters, for the reasons as set out in paragraph 47 of the determination. The judge had not accepted that the appellant worked for Hezbi-Islami and, even if he had been, found that by itself would not attract attention.
6. In terms of the appellant's ill health and the arguments as to the lack of safety on return, the Judge was not satisfied that the appellant's said oppressive symptoms were referable to any persecution by the Taliban and even if the illness of the appellant was accepted, he had lived in Pakistan seemingly without difficulty. This was highlighted in paragraph 65 of the determination. The Judge gave little weight to the evidence of Professor Katona.
7. The appellant sought to challenge the decision. Leave was granted to the Upper Tribunal to determine that issue and thus the matter comes before me to do so.
8. It is said firstly that the Judge failed to approach the medical evidence of Professor Katona in the correct manner. Rather than considering the evidence as a whole, it is clear from paragraph 53 of the determination, that the Judge has come to a conclusion as to the medical evidence having first considered the credibility of the overall account.
9. Further it is said that scant consideration of the evidence was made. Indeed it is suggested, particularly in terms of the appellant's role as a migration agent and working in the Hezbi-i-Islami, that no account is given of the evidence and certainly little reference is made to what the appellant had to say about his role and function. Further there is scant regard to the

report of Mr Foxley as to the profile which would thereby be created. It is not so much that his working for Hezbi-i-Islami would be a risk factor in itself but it would be a matter which may well arise in questioning of the appellant by the authorities and as such would contribute to his risk. Fundamentally, however, it was said that the Taliban remained a real risk to the appellant wherever he may be.

10. In terms of return it was argued that the appellant could not safely return, both as to the risk that his profile be revealed and the interest of the Taliban still a live one. The medical evidence as to his PTSD was also relevant to his ability to cope. It is contended that the Judge failed to consider properly the approach to return, nor did the Judge consider the issue of risk by way of suicide.
11. Mr Draycott submits that even a return to Kabul would not address the concerns as to return. The appellant is still a person vulnerable by way of illness, he lacks any support structure and his past will clearly emerge when questioned because he is a stranger.
12. Mr Bates indicates that certain of the challenges are perhaps more fact-sensitive and are not so obvious as others. He concedes, however, that the approach taken to the medical evidence generally was not appropriate. It was relevant evidence to be taken into consideration in assessing the credibility of the account of matters as given. It was also important evidence to consider the issue on safety of return. Mr Bates also concedes most fairly that the approach to return is one that is defective in all the circumstances. He does not submit in the light of such matters that any of the findings made by the First-tier Tribunal Judge should be maintained.
13. In all the circumstances, therefore, he concedes that the decision is not one that should stand. Accordingly, both he and Mr Draycott invite me to set it aside. This I do.
14. In the light of the necessity to make substantial findings both as to credibility and fact, it is appropriate to remit the matter to the First-tier Tribunal in accordance with the Senior President's Practice Directions. It will be for that Tribunal to issue such directions as it thinks proper.

### **Notice of Decision**

15. The appeal in the Upper Tribunal allowed to the extent that the decision of the First-tier Tribunal Judge is set aside to be re-made in the First-tier Tribunal.

No anonymity direction is made.

A handwritten signature in black ink, appearing to read "P. Q. King". The signature is written in a cursive style with a horizontal line under the "g".

Signed

Date 18 September 2017

Upper Tribunal Judge King TD