



**The Upper Tribunal
(Immigration and Asylum Chamber)**
PA/02033/2016

Appeal Number:

THE IMMIGRATION ACTS

Heard at Manchester

On 2nd June 2017

**Decision & Reasons
Promulgated
On 6th July 2017**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL FARRELLY

Between

MR.N.H.S.

(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

Representation:

For the Appellant: Mr Greer, Counsel, instructed by Arshed and Co, Solicitors.
For the Respondent: Mr A McVetty, Home Office Presenting Officer.

DECISION AND REASONS

Introduction.

1. The appellant is a national of Pakistan born in April 1979. He came to the United Kingdom in 2004 on a student Visa valid until September 2005. Application for further leave to remain in 2005 was refused and he then overstayed. In September 2015 he made a claim to protection.
2. The basis of the claim was that he is gay and faces persecution on return. He said he did not currently have a partner in the United Kingdom but had been in two long-term same-sex relationships here. He was in a relationship when he was 15 in Pakistan. In 2005 his family wanted him to marry someone in the United Kingdom and because he refused and shamed the family they threatened him. In support of his claim he had produced documents including extracts from various websites; text messages and a letter of support.
3. His claim was refused on 18 February 2016. The respondent did not accept that he was gay. Reliance was placed upon section 8 of the Asylum and Immigration (Treatment of Claimants) Act 2004. His delay in claiming was highlighted. Furthermore, he only made his claim after being notified he was not being granted leave. When he applied in September 2005 for leave he claimed to be working. When the respondent contacted his named employer they advised they were unaware of him. Consequently he had engaged in deception.

The First tier Tribunal

4. His appeal was heard before First tier Judge Lloyd. The parties were represented. The appellant told the judge he was from a high caste associated with Islam. His family finances studies in the United Kingdom and he completed an MBA in July 2005. He then began a gay relationship here. He claimed his brother phoned him in 2005 and told him he was to marry someone of the same cast. He met the person but the relationship did not develop. He said he told his brother he was gay. After this his family had no more contact with him until the summer of 2015 when they again began putting pressure on him to marry. At that time he was in his second gay relationship having moved to Manchester. In the interval he claimed had been living off savings and was supported by friends. He provided evidence of his involvement with gay groups in Manchester.
5. In support of his claim to be gay he called as a witness Mr J who said he was driving through the gay village in Manchester when he

saw the appellant and another man holding hands. When he asked the appellant about this he told him he was gay. Mr J subsequently met the appellant and his partner.

6. The judge did not find the appellant's claim to be credible. The judge did not find it believable that he would be permitted to come to the United Kingdom if his family had found him, at the age of 15, in a same-sex relationship. Furthermore, his evidence had been that his brother continued to financially support him. He also mentioned in his asylum interview that he had intended returning to Pakistan when his studies concluded.
7. The appellant had claimed to be in a same-sex relationship for 10 years in the United Kingdom. However the judge commented that he had only provided three photographs which did not persuade the judge they indicated a sexual relationship. Regarding the witness, Mr J, the judge found his account lacking in credibility. He concluded it was an attempt to bolster his friend's asylum claim. The judge went on to make comments about the different pieces of evidence produced. This included a letter from Mr N who it was said was not available because he was in Pakistan. He claimed to have been working as a taxi driver and said he had driven the appellant to the gay village on a regular basis since 2011. The judge commented on his absence and placed limited weight on his evidence because it could not be further tested.

The Upper Tribunal

8. Permission to appeal was granted on the basis it was arguable the judge failed to properly assess the evidence.
9. The respondent opposes the appeal and provided a rule 24 response. It was contended that the grounds amounted to a disagreement with the judge's findings and adequate reasons had been given for reflecting the claim. By way of example reference is made to his claim of being beaten by his family yet they supported his studies in the United Kingdom.
10. At hearing Mr Greer made submissions on the way the judge dealt with the evidence presented. In response, the presenting officers are contended that the matter of credibility was one for the judge to decide. There was nothing to suggest the judge had applied too high standard of proof. The reference at paragraph 73 to the judge 'not being persuaded' had to be read in the context of the decision as a whole. The presenting officer pointed out that the evidence produced of the appellant's activities in the United Kingdom postdated the negative decision of the respondent. It was submitted that if he had been in a long-term relationship as claimed there should have been more evidence to demonstrate this. The

judge had considered all of the evidence and had made appropriate findings.

11. It is my conclusion that no material error of law has been demonstrated. As the respondent contends I find the points made out amount merely to disagreement with the judge's findings. It was a matter for the judge to decide what weight to attach to the evidence presented. The judge considered the evidence and gave sustainable reasons for the conclusions reached.

Decision

I find no material error of law established in the decision of First tier Judge Lloyd. Consequently, that decision, dismissing the appellant's appeal on all grounds shall stand.

Deputy Judge Farrelly

6th July 2017