



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/06382/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 9 November 2017**

**Decision & Reasons
Promulgated
On 16 November 2017**

Before

**RIGHT HONOURABLE LORD BOYD OF DUNCANSBY
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
DR H H STOREY, JUDGE OF THE UPPER TRIBUNAL**

Between

**MR FAISAL FARMAN
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr P Duffy, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a national of Pakistan, appeals with permission against the decision of Judge Pears of the First tier Tribunal (FtT) sent on 3 August 2017 dismissing his appeal against a decision made by the respondent on 21 June 2017 refusing to grant international protection.

2. The basis of the appellant's claim was that he was at risk in Pakistan from individuals and groups as a result of his involvement in a car accident in June

2011 and also as a result of a blood feud. The appellant came to the UK as a student in August 2012. The day before his student leave expired on 30 November 2015 he applied on the basis of Article 8. This application was refused and he did not appeal. In April 2017 he was encountered working illegally at which point he claimed asylum. The respondent considered his claim and found it to be wholly lacking in credibility.

3. Before this Tribunal there was no appearance by or on behalf of the appellant. The file shows that he was notified at his given address of the date of hearing. In the absence of any explanation having been given for his absence, we decided to determine the appeal in the absence of one of the parties. We heard very briefly from Mr Duffy.

4. The appellant's grounds of appeal are discursive and clearly written without the benefit of any legal help. In essence the judge was said to have erred in not giving significant weight to the psychiatric report; in failing to make any findings on or to properly weight the other medical evidence, the rule 35 report in particular; in relying on inconsistencies between the account given by the appellant to the medical expert and his account given otherwise; in dealing with the medical evidence (including the medical prescriptions presented at the hearing) before deciding credibility; in counting against the appellant the fact that his different statements had not always mentioned certain events claimed to have happened to the appellant in the past (such as the car accident); in not properly considering the evidence of the witness Shahzad Ali; and in rejecting the FIR and newspaper evidence provided by the appellant after his substantive interview.

5. The failure of the appellant to attend and give oral submissions on his written grounds means that we must make what sense we can of his grounds, making due allowance for the fact that they were not drafted with the benefit of any legal help.

6. We have no hesitation in concluding that the grounds fail to identify any error of law.

7. Before proceeding further, it is helpful to summarise the extensive difficulties the judge identified with the appellant's account. Having identified the evidence submitted by both parties the judge heard from the appellant and his paternal cousin, Shahzad Hussain. He then heard submissions from both parties (the appellant being represented before the FtT judge by Ms E Fitzsimons of Counsel). In evaluating the evidence, the judge first dealt with the psychiatric report from Dr S Z Ali and gave reasons for attaching little weight to it. The judge then proceeded to identify numerous inconsistencies and implausibilities in the appellant's account.

8. The judge also counted against the appellant his delay in claiming asylum. The judge found the FIRs and newspapers articles produced by the appellant to be unreliable. Finally, the judge addressed Article 8 issues.

9. We see no legal error in the judge's treatment of the medical evidence. The judge properly noted a number of shortcomings in the psychiatric report,

including: the fact that it assumed the truth of the appellant's account of medical problems he had had in Pakistan (attempting suicide twice; attempting to choke himself to death; having seen a psychiatrist in Lahore) without any medical notes to support these claims (see e.g. paras 27-31, 62 and 91-92); the fact that it simply assumed the truth of the appellant's general narrative; the fact that it identified the appellant as suffering from PTSD and depression even though such a classification did not follow from the questions the psychiatrist asked of the appellant; and the fact that it failed to properly address the issue of malingering. Having examined the psychiatric report for ourselves, we would also observe that it failed to identify any clear methodology or coherent assessment and wholly failed to engage with the difficulties identified by the respondent with the appellant's account in her refusal letter. Its findings on the appellant's mental health problems are at odds with the rule 35 medical report which does not record any personal history of mental disorders or suicide thoughts. The judge's decision took into account the report's view that the appellant's difficulties in giving consistent evidence was attributable to memory loss: see e.g. para 67.

10. Although it is true that the judge makes no express findings on the weight to be attached to the prison records and the rule 35 report, he clearly took them fully into account and was clearly aware that the doctor concerned found the appellant's account plausible and the scarring consistent with how he claims he was attacked: see e.g. paras 62, 87. It is sufficiently clear that the judge attached limited weight to it and had valid reasons for doing so. The judge pointed out in paras 62- 63 that it was based on a different understanding of the appellant's medical history and made reference to incidents that the appellant had not referred to in his asylum interview. It must also be said that the doctor who prepared this report had only a limited amount of relevant background information and was clearly unaware of the numerous difficulties with the appellant's account that had been identified by the respondent in the refusal letter.

11. Given the last-minute production of further medical evidence said to relate to the car accident in 2011 and its aftermath and the appellant's failure to give a satisfactory explanation for why it was only being produced 6 years later, we see nothing untoward in the judge's decision to attach little or no weight to it: see paras 36; 73.

12. In making his adverse credibility findings the judge did not err in numbering among the appellant's inconsistencies significant differences between the accounts he had given in various places including as between his asylum interview and the rule 35 report (see para 63) and as between his asylum interview and the psychiatric report (para 41).

13. We consider wholly unfounded the appellant's claim that the judge compartmentalised the evidence and decided on the appellant's credibility before taking account of the medical evidence. Not only did the judge note the need to consider the evidence as a whole but that is clearly the way he proceeded: see e.g. para 103 and the treatment of the medical evidence as analysed by us above.

14. We are not entitled to interfere in a judge's findings of fact unless they are beyond the range of reasonable responses to the evidence. The judge's assessment that the appellant's different accounts lacked credibility by virtue of a number of inconsistencies (including a failure within the appellant's own evidence to describe the claimed blood feuds in consistent terms (see para 55) and as regards what had happened to the appellant in Pakistan; and the failure of his witness to mention anything about a blood feud).

15. The appellant's grounds relating to the judge's treatment of the evidence of the witness are wholly unarguable and amount to a mere disagreement with the judge's assessment of its quality and effect (the judge anyway primarily relied on it in respect of its effect and the fact that it was at odds with the appellant's own evidence: see e.g. paras 72, 95).


16. The judge's approach to the other documentary evidence, the FIRs and newspaper reports in particular, were based squarely on a fair analysis of their contents. The reasons given for rejecting them are not legally erroneous and the judge's conclusions regarding them at paras 98-102 have to be considered in the context of his assessment of their contents at para 69, 77.

17. We see force in the judge's decision to treat adversely to the appellant his attempted explanation for why, if he had been at risk since 2011, he would have travelled back to Pakistan for around two months residing in two different cities. The judge was fully justified, at para 67 for example, in finding the appellant's various explanations of this trip wholly unsatisfactory.

18. The appellant's grounds raise no challenge to the judge's Article 8 findings.

19. For the above reasons we conclude that the FtT judge did not materially err in law and accordingly his decision to dismiss the appellant's appeal must stand.

Signed



Judge of the Upper Tribunal

2017

Date: 15 November