



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08324/2018

THE IMMIGRATION ACTS

Heard at Field House
On 8 November 2018

Decision & Reasons Promulgated
On 3 December 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ESHUN

Between

[W A]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Burrett, Counsel
For the Respondent: Ms A Fijiwala, HOPO

DECISION ON ERROR OF LAW

1. The appellant is a citizen of Pakistan born on 30 March 1985. He appeals against the decision of First-tier Tribunal Judge Colvin dismissing his appeal against the decision

of the respondent made on 19 June 2018 to refuse to grant him asylum and humanitarian protection in the United Kingdom.

2. He claimed asylum on the basis that he became an atheist in October/November 2017 as a result of a long thought process. His parents are practising Muslims and until the age of 33 he also believed in Islam. He gradually stopped praying regularly when he became busy in the United Kingdom. In March 2017 he met an Indian man called [PM] who is a born atheist and was visiting from India. They began meeting and became good friends over the next four months when they had long discussions about atheism. [PM] showed him tube talks, documentaries and links to articles. He read books by Lawrence Cross, Richard Dawkins and Stephen Hawkins. He then started discussing about God and religion with his housemates who were Muslims and they called him kaffir. He stopped going for Friday prayers. In September 2017 he joined Humanism which is a UK based organisation that supports non-religious people. He started attending events on a monthly basis where he shared his doubts about the existence of God. He concluded in October 2017 that there is no supernatural power and leaving religion behind him had given him a sense of freedom. In December 2017 he told his parents on the phone but they became angry and have disowned him.
3. The judge heard oral evidence from the appellant and [RT]. She is the Campaigns Officer for the Humanists UK and is responsible for the work supporting asylum claimants and works also with the Home Office on non-religious issues.
4. The skeleton argument which was relied on by Ms Heybrook, the appellant's Counsel below, stated that the appellant avers that he will be at risk of persecution should he be returned to Pakistan on the basis of his apostacy. While it is true to say that he indicated during his interview that he thought he was at risk from his family, objective evidence indicates that he would also be at risk from state and non-state actors at large were his atheism to become known.
5. The judge stated that the issue in this case was one of credibility, whether the appellant is a genuine convert to atheism. He based his credibility findings on the appellant's immigration history, the appellant's inability to name the speaker at the Humanist meetings that he attended, and the supporting letter from Humanists UK drafted by [RT] who had not met the appellant but had been in an email exchange with him on 18 June 2018 and signed by Richy Thompson who had no direct contact with the appellant. At paragraph 26 the judge made further adverse credibility findings against the appellant.
6. On the evidence the judge found that the appellant's asylum claim based on a conversion to atheism had no substance even when assessed on the lower standard of proof and was made at a time soon after he was encountered by Immigration Enforcement Officers as a likely last-ditch attempt to stay in the UK. The judge found that the appellant's registration and attendance at some Humanists UK events

was purely to bolster his asylum claim rather than any genuine interest in the subject matter.

7. Mr Burrett took issue with the judge's use of the term "conversion to atheism". He said atheism has both a religious and a political context. In Pakistan the appellant will be considered to be an apostate. That was how the appellant's case was pleaded before the judge.
8. Mr Burrett submitted that the Humanists' supporting network is for those who do not believe in a religion. Even if the appellant embellished his attendance at Humanist meetings, that would not matter if he is an atheist. What the appellant needs to establish is to what extent he engaged in activities to become an atheist. This point was not considered by the judge who looked at his case as if it were a conversion to atheism.
9. Mr Burrett said that the approach that the judge should have adopted was to examine his behaviour before and after he became an atheist and the journey he took from the Islamic faith to atheism in order to assess the appellant's credibility.
10. Mr Burrett said the judge was also required to examine to what extent the appellant was likely to communicate his atheism. We know that he has been discussing atheism in the UK, something that he cannot do in Pakistan. The Humanist organisation was there to provide evidence on the appellant's activity having become an atheist. He submitted that even though the appellant brought in the Humanist organisation to support his case, corroboration was not required.
11. Mr Burrett submitted that if the approach of the judge is flawed then there has to be reconsideration on the evidence.
12. Ms Fijiwala went through the judge's decision and submitted that the judge's findings on the evidence were properly reasoned and not perverse.
13. I find that whilst corroboration is not a requirement in this jurisdiction, it was the appellant who decided to seek the support of the Humanists UK, and therefore the judge was entitled to consider that evidence in his assessment of the credibility of the appellant's claim.
14. Nevertheless, I find that the judge erred in law for the reasons given by Mr Burrett. I find that none of the judge's findings dealt with the appellant's answers to questions 44 to 50 of the interview as to his journey to become an atheist. The issue is not whether the appellant converted to atheism or humanism but whether he is an apostate following his claim that he has abandoned his religion and become an atheist.

15. I find that the judge's failure to deal with all aspects of the appellant's case, issues that were important to his case, means that the judge committed a fundamental error of law.
16. I find that the judge's decision cannot stand. It is set aside in order to be re-made.
17. The appellant's appeal is remitted to Taylor House to be reheard by a First-tier Tribunal Judge other than Judge Colvin.

No anonymity direction is made.

Signed

Date: 29 November 2018

Deputy Upper Tribunal Judge Eshun