



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/10398/2016

THE IMMIGRATION ACTS

Heard at Birmingham Employment Tribunal
On 24th May 2018

Decision & Reasons Promulgated
09th July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

[M R]
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Reza (Solicitor)
For the Respondent: Ms H Aboni (Senior HOPO)

DECISION AND REASONS

1. This is an appeal against a determination of First-tier Tribunal Judge Anthony, promulgated on 18th April 2017, following a hearing at Birmingham Sheldon Court on 24th March 2017. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Bangladesh, and was born on [] 1983. He appealed against the decision of the Respondent Secretary of State, dated 14th September 2016, refusing his application for asylum, and for humanitarian protection under paragraph 339C of HC 395.

The Appellant's Claim

3. The essence of the Appellant's claim is that he has converted to Christianity from the Islamic faith. He did so in June 2011, just twelve days before he left Bangladesh to come to the UK, as a student. He claims that he was interested in the Christianity religion since 2010. His father, according to him, became aware of his conversion in July 2011, but only after the Appellant had left Bangladesh, following which his father disowned him (see paragraph 6 of the determination). The Appellant now fears risk of ill-treatment and persecution in Bangladesh.

The Judge's Findings

4. The judge accepted that the Appellant had demonstrated to the lower standard of proof that he genuinely had started following the Christian faith (see paragraph 19). There was evidence before the judge from an Elder of the Christian church, namely, Mr David Russell, whose evidence the judge also accepted in terms of the Appellant's attendance at the church twice weekly (see paragraph 20). The Appellant had also answered all the questions during the interview with the Respondent.
5. The essential question before the judge was whether the Appellant was at risk of persecution from his family in Bangladesh. The Appellant's evidence was that disclosure of the Appellant's new-found faith had been done by his close friend by mistake, but the judge found this to be implausible (paragraph 22). The judge also did not find that the Appellant's father had disowned him, because if this was so then it was unlikely that his father would have continued any meaningful communication with the Appellant, and was even more unlikely to have assisted the Appellant by posting him documents, which would have ultimately assisted him in the claim for international protection in the UK. As the judge concluded, "I also do not accept that if his father wished him harm that he would assist him to remain in the UK". Moreover, the judge did not accept that the Appellant's relatives would wish to harm the Appellant either (see paragraph 23).
6. The appeal was dismissed.

Grounds of Application

7. The grounds of application state that the judge accepted that the Appellant was a genuine Christian convert, but then went on to err in the assessment of risk to the Appellant on return. On 1st November 2017 the Upper Tribunal granted permission to appeal, on the basis that the judge ought to have considered where the Appellant would be at risk of persecution from others in society on account of his conversion

from Islam. However, in granting permission, the Upper Tribunal was clear that any such argument “will need to be fortified by more robust information about the risk to Christian converts in Bangladesh”.

8. On 28th November 2017 a Rule 24 response was entered to the effect that the judge had directed herself appropriately and that there was no error of law.

Submissions

9. At the hearing before me on 24th May 2018, Mr Reza, appearing as the Appellant’s representative, relied upon his grounds of application. He submitted that there were two essential issues.
10. First, that the judge had accepted that the Appellant was a genuine Christian convert.
11. Second, having done so, the judge failed to consider whether the Appellant was at risk from wider society (confining herself only to a consideration of whether he was at risk from his family which the judge determined he was not). Mr Reza submitted that there was a statement at C3 of the Respondent’s bundle (paragraphs 36 to 38) where the Appellant states that he was scared “from the Muslim community”, such that the judge ought for this reason have considered the risk to the Appellant from the wider community. Moreover, in his interview, the Appellant had stated (at question 62) that, “I was too frightened to tell them”, when referring to his friends for having converted, because he feared being beaten up by them.
12. In addition, there was a statement from an Elder of the Appellant’s church, David Russell, where he had explained the fear of Bangladeshis who had converted to Christianity. Finally, that the judge had expressly referred to the “Country Information and Guidance Bangladesh: Minority Religions Groups March 2016” Report (at paragraph 12) but failed to note that at paragraph 5.4.3 and at paragraph 5.4.4 there was confirmation of risks, because an example was given of how a person who had attempted to convert to Christianity from the Islamic faith, was arrested by the authorities.
13. If all of this was true, submitted Mr Reza, then the Appellant would succeed on the basis of paragraph 276ADE as well because there will be “very significant obstacles” to his Article 8 rights if he were to return.
14. For her part, Ms Aboni relied upon the Rule 24 response and submitted that the judge had directed herself appropriately. There was no material error of law. It is true that the judge had concluded that there was no risk from the Appellant’s family. However, it did not end there. The judge had referred to the “background country information”, and noted on the basis of the Country Information and Guidance in Bangladesh that, Bangladesh is a secular parliamentary democracy” and that “religious freedom is generally respected by the government and there is no indication that the State actively engages in persecuting people on account of their religion” (at paragraph 12). I

15. In any event, even if the Appellant did fear a risk of persecution, internal relocation was available to him, and the judge had expressly referred to the fact that “internal relocation is likely to be an option but will depend on the nature and origin of the threat as well as the personal circumstances of the person” (paragraph 13).
16. Ms Aboni also referred to the fact that Section 3 of the policy document makes it clear that “religious minorities can practice their faith freely”. The fact was, submitted Ms Aboni that there was no contrary evidence produced by the Appellant before the judge to show that the official position, as thus documented, would not prevail in his case. As for the statement by David Russell, he was an Elder of the church, but he was not an expert.
17. In reply, Mr Reza submitted that the Appellant’s persecution was not from the State. His persecution was from the wider Islamic society. He had stated as much at C3 of his statement.

No Error of Law

18. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA of 2007), such that I should set aside the decision. My reasons are as follows.
19. First, it is not the case that the judge confined herself only to be in fear of ill-treatment from the Appellant’s family, which she wrongly rejected. This was a comprehensive and careful determination that considered all aspects of the Appellant’s claim. Thus, the judge observed how “the core of the Appellant’s account contains inconsistencies which are unresolved”. She went on to say that “none of the Appellant’s accounts about what risks he faces on return are reliable” and this was “because I do not accept that the Appellant has given a truthful account about what he fears in Bangladesh” and this “would not put him in any risk category” (paragraph 27). This plainly shows the judge taking into consideration risk from all quarters to him.
20. Second, and in any event, permission to appeal in this case was granted by the Upper Tribunal on the basis that the Appellant would have to produce “more robust information about the risk to Christian converts in Bangladesh”. None has been produced. It is true that reliance has been placed upon a witness statement from Mr David Russell (at pages 26 and 27) who observes that “Christians have faced increasing levels of persecution ...”. He goes on to say that “Bangladesh is ranked 35th out of 50 countries on a watch list by Open Doors UK”.
21. This is simply a general statement. It does not demonstrate a risk to the Appellant. In any event, being 35th out of 50 countries is not a high risk to the Appellant given the other evidence, which the judge had referred to (at paragraphs 12 to 13) that does say that “religious freedom is generally respected by the government”.
22. This was a case where the judge, having accepted that the Appellant was a genuine convert, was clear that the Appellant had failed to give a truthful account “about what

he fears in Bangladesh” and a great deal about what is said concerning fear from his family was simply implausible for the reasons given by the judge.

Notice of Decision

There is no material error of law in the original judge’s decision. The determination shall stand.

An anonymity direction is made.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Juss

7th July 2018