



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/13733/2017

THE IMMIGRATION ACTS

Heard at Field House  
On 6 June 2018

Decision & Reasons Promulgated  
On 20 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

FA

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Ms J Isherwood, Senior Home Office Presenting Officer  
For the Respondent: Mr M Allison, Counsel instructed by Solomon Solicitors

DECISION AND REASONS

Background

1. The appellant in this case is the Secretary of State and the respondent is Mr F.A. However, for the purposes of this appeal I refer to the parties as they were before the First-tier Tribunal where the appellant was Mr F.A.
2. The appellant is a male citizen of Pakistan who entered the UK on 11 November 2016 and claimed asylum on the same day on the basis of asserted risk as a practising barrister who had represented a number of Ahmadi cases in respect of false allegations made by religious extremist groups. The appellant asserted that he was at risk from extremist organisations. The respondent refused that application in a decision dated 10 December 2017. In a decision and reasons promulgated on 2 February 2018, Judge

of the First-tier Tribunal Mr A A Wilson allowed the appellant's appeal on asylum grounds.

3. The Secretary of State appeals with permission on the following grounds:

Ground 1: making a material misdirection of law;

Ground 2: failing to give reasons or adequate reasons for findings on material matters  
- document verification report/reliability of documents;

Ground 3: failing to give reasons or adequate reasons for findings on material matters  
- sufficiency of protection

**Error of law discussion**

**Ground 1**

4. It was asserted that the First-tier Tribunal did not find any Convention reason when allowing the appeal, instead finding that the claim was for reasons of imputed opinion. It was the Secretary of State's contention that it was the appellant's choice to continue to defend Ahmadis and therefore this was not a matter that fell within **HJ (Iran) v SSHD [2010] UKSC 31** and it was asserted that the appellant could remove the imputed aspect by ceasing to represent Ahmadis.
5. Ms Isherwood pointed out that the appellant's pupil master who had come to the UK had not claimed asylum but had obtained status by virtue of marriage and that this did not support the appellant's case. However, as set out in paragraph 6 of the appellant's witness statement, it was not relied on by the appellant that Mr B had claimed asylum.
6. The judge recorded evidence from Mr B in his witness statement that he had received threats during his practice and that when he left Pakistan he had transferred the majority of his cases to the appellant, and that these were Ahmadi cases. The judge, including at [14], accepted that the appellant would be a "perceived Ahmadi". I do not agree therefore with the contention by the respondent that there was no Convention reason found by the First-tier Tribunal. What the First-tier Tribunal was saying was that it was accepted that the appellant had been imputed to be of Ahmadi faith and/or a person rejecting Islam and was therefore at risk of persecution for religious reasons.
7. In reaching this finding the First-tier Tribunal had in mind the appellant's evidence which the First-tier Tribunal accepted, including at [9] when it was accepted that the case was "clearly strong". The appellant provided a detailed witness statement. The appellant, at paragraph 31 stated as follows:

"I provided detailed clarification of my claim in my asylum interview and also summarised above. I maintain as above that I am already a particular target of extremist fundamentalist groups in Pakistan. Upon return, I am at risk of future persecution at the hands of militant groups in Pakistan. The police collude with

such groups. Although I am not an Ahmadi, as I worked in association with them, defending them despite warnings not to do so, I was threatened and attacked.”

8. I also take into consideration what the appellant said at paragraph 44 of his witness statement:

“The Home Office do not dispute that I am a lawyer in Pakistan. That is my profession. Should I be returned to Pakistan, I would return to my profession; I would continue as I did before, representing clients clamouring for defence of their human rights including Ahmadi.”

9. I accept therefore that the Convention reason is on grounds of religion. The fact that the appellant is not actually of the Ahmadi faith (it is not disputed he is a Sunni Muslim) is irrelevant as the judge was satisfied, on the basis of all the evidence, that the appellant had established that he would be perceived to be of that faith due to his actions as a barrister. Whether or not he would continue his actions on return is, in that sense, immaterial.
10. I am also in agreement that there is no error in the judge’s alternative findings that the appellant could not be expected to cease from representing Ahmadis on return to Pakistan. The appellant was clear in his witness statement including as cited above that he will continue to represent clients “clamouring for defence of their human rights including Ahmadis”. I agree with Mr Allison’s submission that the appellant cannot be expected to withdraw representation from a group of appellants in order to avoid persecution. The appellant’s strong reliance on defending human rights is analogous in my view to what was said in **RT (Zimbabwe) v Secretary of State for the Home Department [2012] UKSC 38** where it is well-established that the **HJ (Iran)** principles apply to attributed political opinion and also to religion, **MT (Ahmadi - HJ (Iran)) Pakistan [2011] UKUT 277 (IAC)**. Although it is accepted that the appellant is not Ahmadi, I do not accept the Secretary of State’s contention that the appellant could be expected to cease his human rights law practice in order to avoid persecution. In any event nothing turns on this as I am satisfied that the judge’s findings are adequate in relation to the appellant being perceived to be Ahmadi and therefore the Convention reason is religion.

## Ground 2

11. It was argued that the judge was incorrect in his findings in relation to the First Information Report; Ms Isherwood took me to the report which confirmed that the document verification did not identify the appellant’s name. Ms Isherwood submitted that the judge applied different standards of proof and it was not clear why the judge had given the appellant the benefit of the doubt with respect to the First Information Report. She further submitted that there was nothing in the appellant’s bundle concerning police officers being corrupt as was being suggested in the judge’s findings (in relation to the finding that the police officer in Pakistan deliberately gave the UK authorities the wrong information about to the First Information Report).

12. However, Ms Isherwood subsequently conceded that there were documents in the appellant's bundle relating to police corruption in Pakistan. In fact, in addition to the respondent's own Country Information report, there were a number of other reports in the appellant's bundle. This included (but was not limited to) a specific reference, at page 331, that the police are 'deeply entrenched' in the persecution of Ahmadis. Mr Allison also pointed to an 81 page report, from 2016, in the appellant's bundle, starting at page 227, entitled 'Police abuse and reform in Pakistan.'
13. Ms Isherwood submitted that although the judge applied **VT (Article 22 Procedure Directive - confidentiality) Sri Lanka [2017] UKUT 368 (IAC)** in relation to making enquiries in the country of origin, she again relied on the submission that the appellant's confidentiality was not breached as his name was not mentioned in the document verification report.
14. I take into consideration that at [5] of the decision and reasons the judge noted that the respondent initially contended that a false document was submitted but that in submissions "the Presenting Officer simply relied upon the case of **Tanveer Ahmed [2002] UKIAT 00439** asking that no weight be placed on the document". I accept in this context that the judge then approached the documents, following **Tanveer Ahmed**, in the round. Although Ms Isherwood referred repeatedly to the appellant not supplying any further evidence in support of his claim that the documents could be relied on, I accept Mr Allison's submission that it is difficult to know what further evidence could be produced; the only thing that could be done further is to again approach the police, whereas it has been the appellant's consistent contention that it is the police who, (and such was accepted by the judge) provided this false information as they clearly did not wish to reveal this information and intended to frustrate the appellant's case
15. It was the appellant's consistent evidence including in his witness statement that in his view the Pakistani authorities and police never intended to investigate his complaint of 5 November 2016 in relation to the attack on his life and that the information held and conveyed to the UK authorities in relation to the November 2016 incident was therefore false.
16. This must be seen in the context of the appellant's evidence, including his oral and written evidence which the judge found to be strong. At paragraph 38 of his witness statement, the appellant noted that in his First Information Report it had stated that:

"The accused has committed a fully-planned terrorist act to kill me. I have already been given threats by the religious terrorist organisation to stop advocacy of Ahmadis who are non-Muslims. Otherwise they will kill me. It is requested through this application to take action against the accused (unknown) and the terrorists behind him."
17. The appellant notes difficulties including with Ahmadis in registering FIRs although the appellant was able to because he is not officially subject to anti-Ahmadi laws. However, the appellant has been consistent and relies on the background country information, including at page 331, which is a report Al Jazeera English, entitled

'Pakistan Ahmadiyya: an 'absence of justice'. The concerns about the police and Ahmadis is raised by a member of the Human Rights Commission of Pakistan. In this context the appellant did not believe that the nature of his complaint which he informed police of on 5 November, was what was conveyed to the UK authorities because of the fact that the police officers are the Sunni religion and hold bias views in relation to Ahmadis.

18. I am satisfied that the First-tier Tribunal properly applied the principles in **Tanveer Ahmed** and considered all the evidence in the round and ultimately decided to "give the appellant the benefit of any doubt there is". The fact that, as identified by Ms Isherwood, the judge identified that it is possible that a professional person wishing to relocate to the UK can falsify documents, is an indication that the judge was considering all the possible issues in this case and approached the evidence with an open mind. The respondent's second ground discloses no more than a disagreement with the judge's recent findings.

### Ground 3

19. It was contended that the judge failed to provide adequate reasons on sufficiency of protection. Ms Isherwood submitted that this was linked to ground 1 and it was her contention that the judge was wrong to treat the appellant as an Ahmadi. For the reasons given above I have rejected that submissions.
20. The judge took into consideration the country guidance case of **MN & Another [2012] UKUT 00389** in relation to the treatment of Ahmadis. Ms Isherwood submitted that this case reveals that Ahmadis can relocate. I take into consideration that the Secretary of State's grounds did not challenge the judge's findings on internal relocation.
21. Given that the First-tier Tribunal accepted the appellant's evidence (and as noted in the determination the respondent had already accepted that the appellant was a lawyer and had accepted that one of the document verification reports had verified an earlier FIR report as genuine) there was no error in the judge taking into consideration the country guidance case law in respect of Ahmadis; the judge was satisfied that such evidence showed that it was very difficult for a perceived Ahmadi such as the appellant to get effective protection from the local police and that internal relocation is often required. Whilst **MN** identifies that each case turns on its facts, there was no error in the judge considering the particular difficulty that this appellant would have in relocating.
22. The judge also considered this in the context of considering sufficiency of protection. The judge was not satisfied that such protection would be available in finding as he did that it was very difficult for local police to give effective protection. Those were findings fully available to the judge and must also be considered in light of the judge's earlier findings that the appellant's explanation in relation to the FIR, effectively that the local police had provided the wrong information to the UK authorities, was correct.
23. The judge found at [12] that "I am not confident that a local police officer or even duty clerk correctly relay the circumstances to a representative of the respondent" (sic). There was no error in the judge taking into consideration that as a lawyer who had

developed a reputation for representing Ahmadis and had been specifically targeted by a militant group for this reason, the respondent was unlikely to provide effective protection. The judge found that internal relocation would not be an option as to transfer his qualifications “he would have to declare and transfer as appropriate his qualifications from another province his previous professional career would quickly be known”.

24. I take into consideration **AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)**. When considering whether an individual can access sufficiency of protection the particular facts must be assessed. The First-tier Tribunal was entitled to take into consideration the particular situation of this appellant, including that he had produced what the judge found to be reliable documents including First Information Reports demonstrating an attack on the appellant and evidence showing that he had represented Ahmadis in Pakistan. The judge also found the appellant to be credible. Given also the judge’s findings that the local police officer or even duty clerk had failed to correctly relay the circumstances to the UK authorities, the judge was entitled to reach the findings that he did, that sufficiency of protection would not be available to the appellant and that he could not relocate including because of the fact that he would continue to practise.
25. I take into consideration Ms Isherwood’s submission that although the information at page 349 of the appellant’s bundle did not specifically address the point in relation to the police providing false information. However, there is considerable background information in relation to general corruption and police abuse and specific information in relation to police failures to protect Ahmadis. In this context the findings the judge made were available to him and the respondent’s arguments disclose no more than a disagreement with those reasoned findings.

### **Notice of Decision**

26. The decision of the First-tier Tribunal contains no error of law and shall stand.

### **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: 15 June 2018

Deputy Upper Tribunal Judge Hutchinson

**TO THE RESPONDENT**  
**FEE AWARD**

As no fee is paid or payable in this application there can be no fee award.

Signed

Date: 15 June 2018

Deputy Upper Tribunal Judge Hutchinson