



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/08595/2018

THE IMMIGRATION ACTS

**Heard at Manchester
On 17th April 2019**

**Decision & Reasons Promulgated
On 26th June 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE MANDALIA

Between

**MA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms B Hashmi, Mamoon Solicitors

For the Respondent: Mr McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. Although an anonymity direction was not made by the First-tier Tribunal (“FtT”), and no application is made before me, as this a protection claim, it is appropriate that a direction is made. 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. This direction applies

amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

2. The appellant is a Pakistani national. Although his immigration history is unclear, it appears that he first arrived in the United Kingdom in 2010 with the benefit of leave to enter as a student. He was granted subsequent extensions, and appears to have last arrived in the UK on 22nd July 2013, again as a Tier 4 General student, with leave valid until 30th November 2013. He remained in the UK unlawfully and on 10th January 2018, he made a claim for asylum. The claim was refused by the respondent for the reasons set out a decision dated 27th June 2018. The appellant appealed, and his appeal was dismissed for the reasons set out in a decision of FtT Judge Chambers promulgated on 30th January 2019. It is that decision that is the subject of the appeal before me.

The decision of FtT Judge Chambers

3. A brief summary of the appellant's claim for asylum is set out at paragraphs [2] to [3] of the decision. At paragraph [4] of the decision, the FtT Judge summaries the respondent's reasons for refusing the claim. The Judge's findings and conclusions are to be found at paragraphs [9] to [29] of the decision.
4. At paragraph [9] of the decision, the FtT Judge refers to the objective background material about the "Double Shah" scheme, the exposure of that scheme in April 2007, and the arrest and death in prison of Sibtul Hasan Shah, the mastermind behind the scheme.
5. In reaching his decision, the FtT Judge had regard to a number of documents relied upon by the appellant. The Judge noted at paragraph [10] of this decision, that the appellant ostensibly came to the UK as a student. Having considered the documents before him, the Judge was satisfied that the appellant had gained an MBA from the University of Northampton. At paragraph [11] of his decision, the Judge considered the

documents relied upon in support of the claim that the appellant's parents were divorced when he was about five, and that his mother had remarried. At paragraph [12] of his decision, the Judge considered the documents relating to the death of the appellant's stepfather and concluded, at [13], that the appellant's stepfather was murdered.

6. At paragraph [15] of his decision, the Judge referred to a petition in the Lahore High Court in proceedings against two individuals, one of whom is the appellant's maternal uncle. At paragraphs [16] to [19] of the decision, the Judge considered the connection between the appellant's stepfather, his maternal uncle, and Sibtul Hasan Shah, the mastermind behind the "Double Shah" scheme. The Judge also considered the attack upon the appellant that was said to have occurred in 2009 when the appellant was travelling on a student bus.

7. At paragraphs [20] and [21] of the decision, the Judge states as follows:

"20. On the totality of the evidence and mindful of the low standard of proof in asylum appeals, it is established that the appellant's step father and uncle were involved with the "Double Shah" corruption which cheated people out of a large sum of money. The appellant's stepfather was killed. A mob attacked the appellant. The appellant received injuries. Although he came to the UK as a student he had at the time the dual intention of studying and escaping the adverse attention at home. The appellant is, generally, credible in his account.

21. It is not suggested by the respondent that the appellant was in any way culpable. He was young and clearly, not criminally responsible for his actions. Although on his account what he did assisted the furtherance of the fraud by the others, the appellant was not acting unlawfully. The appellant was never prosecuted by the authorities of his country. It is not contended that he is at risk of being prosecuted. This is not a case in which the prosecution overlaps with persecution. The appellant claims that he is at risk from members of the defrauded group of people who lost money by investing in the scheme, and will now seek vengeance against him."

8. At paragraph [25], the Judge again noted that it is not suggested that the appellant is facing any form of persecution or difficulty with the authorities. The Judge referred to the evidence of the appellant that the

police intervened and made arrests when he was attacked. The Judge also noted that the appellant returned to Pakistan after completing his studies, and spent about four weeks in Pakistan.

9. At paragraphs [26] and [27] of the decision, the Judge considered whether the appellant could turn to the authorities in Pakistan for protection, or internally relocate. The Judge stated as follows:

“26. Documents the appellant relies upon show that the police carried out an appropriate investigation. Looking at the objective evidence it is shown that the authorities are capable and willing to provide the appellant with protection. The police were able to distinguish between the family members who had perpetrated the fraud and the appellant who had no criminal part in it. Although the police are capable of corruption that they were not corrupt in relation to the appellant.

27. The appellant’s alleged fears are based upon the actions of non-state individuals. It is not demonstrated that they will have any influence over the state. Alternatively, it is shown that the appellant would not have a well-founded fear of being persecuted on the basis of his relocation to another part of the country. The law provides for freedom of movement within the country. Pakistan’s size and diversity generally, allows for reasonable relocation options depending upon the individual’s circumstances. There is no requirement for the appellant to return to his home area. The events the appellant complains about are now somewhat stale. Based upon the appellant’s individual circumstances it would not be unreasonable to expect him to return and resettle in a large city. It is not demonstrated that the appellant is a refugee or that he has become a refugee since being in the United Kingdom.”

The appeal before me

10. In the grounds of appeal advanced on behalf of the appellant, it is it said that in reaching his decision, the FtT Judge failed to have proper regard to the matters set out in the appellant’s witness statement. In particular, at paragraph [21] of his decision, the FtT Judge states that the appellant does not contend that he is at risk of being prosecuted. However, at paragraph 16 of his witness statement, the appellant claimed that although he was not directly involved, the authorities and those affected by the scam believe that he has the money as it was transferred abroad and he is “...

Now on the top of the list ...". He claimed in his witness statement that he will be at risk of torture from the authorities, particularly NAB and the police. Similarly in concluding that the appellant's alleged fears are based upon the actions of non-state individuals, and that in any event he could internally relocate, the FtT Judge failed to have regard to the matters set out in the appellant's witness statement and his answers in interview.

11. Permission to appeal was granted by FtT Judge Blundell on 1st March 2019. The matter comes before me to consider whether the decision of the FtT involved the making of a material error of law, and if so, to remake the decision.
12. Before me, Ms Hashmi submits that the FtT Judge erred in his consideration of the claim by proceeding upon a mistake as to fact. The FtT Judge proceeded upon the premise that the appellant does not contend that he is at risk of being prosecuted, whereas at paragraph 16 of his witness statement, the appellant had stated "*... I will suffer torture from authorities particularly NAB and the police. They will put their every effort to prove that I was one of the main culprits. Further to that they would try to recover money from me despite I was not the beneficiary.*". She submits that insofar as issues of sufficiency of protection and internal relocation are concerned, the appellant confirmed during his interview (Q.46 and Q.100) that despite police protection, his stepfather has been killed and his attackers have not been punished. The appellant explained in his witness statement, what he had experienced when he returned to Pakistan but there is no reference to those events in the decision of the FtT Judge.
13. In reply, Mr McVeety submits that the appellant was accepted by the FtT Judge to be generally credible. The appellant's maternal uncle remained in Pakistan and on the one occasion when the appellant was attacked, he was able to seek the protection of the authorities. There is no evidence that the appellant is on a watchlist, and it is to be noted that the appellant

has never been investigated and was able to enter and leave Pakistan through the normal entry and exit channels. Mr McVeety submits that the FtT Judge carefully considered the appellant's claim and gave adequate reasons for dismissing the appeal. He submits that the background to the appellant's claim is a very highly publicised scam, and that the appellant is not named in any of the background material or documents relied upon by the appellant from official sources. He submits that on the evidence, it was open to the FtT Judge to conclude that there would be sufficient protection available to the appellant on return, and that he could in any event, internally relocate.

14. Although I accept that at paragraph [21] of the decision, the FtT Judge states that the appellant does not contend that he is at risk of being prosecuted, that error is immaterial. It was common ground before the FtT, that the appellant was young at the time of relevant events, and that he was not in any way culpable. The Judge correctly noted that the appellant was never prosecuted by the authorities. The appellant had provided the FtT with a number of documents issued by the Pakistani authorities. Ms Hashmi accepts that at page 99 of the appellant's bundle, there is a document dated 12 June 2007 issued by the National Accountability Bureau ("NAB"), which names various individuals against who there is an allegation of "Cheating members of public at large and criminal breach of trust". Ms Hashmi accepts that the appellant is not named in that document. She accepts that the appellant's name does not feature in any of the other documents relied upon by the appellant, and there is no evidence to confirm that there are any outstanding proceedings against him, or indeed the threat of such proceedings. The appellant's claim in his witness statement that the authorities and those affected by the scam believe that the money was transferred to the appellant and he is now "*... on the top of the list ...*", is entirely unsupported. Although I accept that corroborative evidence is not always available, here, there is a wealth of evidence, including background material to establish those that are under investigation, or considered to

be responsible for the scam. The FtT Judge noted the evidence in the form of a copy petition in proceedings in the Lahore High Court, against individuals including the appellant's maternal uncle, that refers to 28 claimants seeking compensation for being defrauded. The appellant is not named in that document, as an individual against whom anyone seeks compensation.

15. At paragraph [25] of the decision, the FtT Judge noted that the appellant was able to return to Pakistan after completing his studies for about four weeks and in interview, the appellant had confirmed that he did not have any difficulty leaving Pakistan. Ms Hashmi submits that insofar as issues of sufficiency of protection and internal relocation concerned, the appellant confirmed during his interview (*Q.46 and Q.100*) that despite police protection, his stepfather has been killed and his attackers have not been punished. The FtT Judge found that the appellant's stepfather had been murdered. It does not follow in my judgement, that there is no sufficiency of protection available to the appellant, whose evidence at paragraph 16 of his witness statement is that he was not directly involved in the scam. The Judge found, at [26], that *"... The police were able to distinguish between the family members who had perpetrated the fraud and the appellant, who had no criminal part in it. Although the police are capable of corruption, they were not corrupt in relation to the Appellant"*.
16. In my judgment, having considered the factual background to the appellant's claim, and the background material, it was open to the Judge to conclude that the authorities are capable and willing to provide the appellant with protection. It was in my judgement open to the FtT Judge to conclude that internal relocation is open to the appellant. The Judge noted, at [27], that the events the appellant claims about, are now somewhat stale. It was in my judgement open to the FtT Judge to conclude that upon the appellant's individual circumstances, it would not be unreasonable to expect him to return and resettle in a large city.

17. The obligation on a Tribunal is to give reasons in sufficient detail to show the principles on which the Tribunal has acted and the reasons that have led to the decision. Such reasons need not be elaborate, and do not need to address every argument or every factor which weighed in the decision. If a Tribunal has not expressly addressed an argument, but if there are grounds on which the argument could properly have been rejected, it should be assumed that the Tribunal acted on such grounds. It is sufficient that the critical reasons to the decision are recorded.
18. In my judgement, the findings reached by the Judge were neither irrational nor unreasonable in the *Wednesbury* sense, or findings that were wholly unsupported by the evidence. The assessment of such matters is always a highly fact sensitive task. The FtT Judge was required to consider the evidence as a whole. In assessing the credibility of the claim advanced by the appellant, the Judge was required to consider a number of factors. They include, whether the account given by the appellant was of sufficient detail, whether the account is internally consistent and consistent with any relevant specific and general country information, and whether the account is plausible. He clearly did so. On appeal, the Upper Tribunal should not overturn a judgment at first instance, unless it really cannot understand the original judge's thought process when he or she was making material findings.
19. In my judgment, the appellant is unable to establish that there was a material error of law in the decision of the FtT, and it follows that the appeal is dismissed.

Notice of Decision

20. The appeal is dismissed and the decision of the First-tier Tribunal Judge stands.
21. No anonymity direction was made by the First-tier Tribunal. As this is a protection claim, it is appropriate that a direction is made. 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 his family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

Signed
2019

Date

24th May

Deputy Upper Tribunal Judge Mandalia

TO THE RESPONDENT

FEE AWARD

22. I have dismissed the appeal and therefore there can be no fee award.

Signed
2019

Date

24th

May

Deputy Upper Tribunal Judge Mandalia