



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

Appeal Number: PA/09615/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 25 April 2019**

**Decision & Reasons Promulgated
On 01 May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

**ZOHAIB AHMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Young-Harry promulgated on 11 May 2018 in which he dismissed on protection grounds the Appellant's appeal against a decision of the Respondent dated 14 September 2017 refusing asylum in the UK.
2. The Appellant has not attended before the Upper Tribunal, either by way of representative or in person. Although the Appellant has had some legal assistance hitherto, his previous representatives wrote to the Tribunal on 4

April 2019 indicating that they were no longer instructed in the proceedings. That letter identified the date of today's appeal hearing, and in such circumstances I am satisfied that the Appellant has had due notice of the hearing. No communication has been received from him to explain his non-attendance. An attempt was made to contact him by way of a contact e-mail address during the course of this morning, but by the time the appeal was called on at 12:45pm there had been no response.

3. In all of the circumstances - including being satisfied that due notice of the hearing has been given to the Appellant, that he has had the opportunity of attending the Tribunal in person or by way of representative to amplify upon his grounds of appeal, and that in any event he has had the opportunity to send to the Tribunal any documents or submissions upon which he might wish to rely - I was satisfied that it was appropriate to proceed with the hearing in the absence of the Appellant.
4. The Appellant is a citizen of Pakistan born on 15 May 1990. He entered the United Kingdom on 21 January 2012 pursuant to a student visa. An application for further leave to remain as a student was made on 12 March 2014 which, in due course, was refused with no right of appeal on 16 June 2015.
5. The next contact with the immigration authorities appears to have been on 20 March 2017 when the Appellant claimed asylum. It is unclear from the materials before me the exact circumstances in which he came to make that claim - whether it was, as it were, of his own volition, or whether it was pursuant to some sort of enforcement action. Be that as it may, a screening interview was conducted on 20 March 2017 and on 29 June 2017 a substantive asylum interview was conducted.
6. The Appellant's application for protection was refused for the reasons set out in a 'reasons for refusal' letter ('RFRL') dated 14 September 2017.
7. In the screening interview the Appellant indicated the basis of his claim in the following terms:

"Family dispute which started 1992-94 and 2 people were killed at that time between the families.

My father is afraid that I will be killed and I cannot return to my village because of the dispute.

If the dispute is resolved I will be happy to go back to Pakistan".
(paragraph 4.1)

8. It is to be noted that at section 3.1 of the screening interview the Appellant gave his reasons for coming to the United Kingdom in these terms:

"At the time my father sent me [as] a student because of another family is at war with my family.

A family dispute".

9. I also pause to note that at section 5.3 the Appellant answered "No" to the question *"Have you ever, in any country, been accused of, or have committed an offence for which you have been, or could have been convicted? (including traffic offences)".*

10. At the substantive asylum interview the Appellant put his case primarily on a quite different basis. At the interview, some three months after the initial screening interview, the Appellant produced a handwritten statement (exhibited in the Respondent's bundle at Annex D). In the statement he claimed to be at risk in Pakistan in consequence of his association with a woman, 'S', in the United Kingdom. S had also been a student in the UK from Pakistan; the Appellant indicated that he was initially accused of rape, subsequently charged with stalking / harassment, but that charges in the UK were eventually dropped. The Appellant said that members of S's family wished harm upon him in the event that he returned to Pakistan, and to that end a First Information Report ('FIR') had been filed against him.

11. That this statement was only produced for the first time at the asylum interview is evident from both question 3 and question 19 of the interview. Indeed it is at question 19 where the Appellant, indicating the statement, says that its narrative is the main reason for his claim rather than the family dispute mentioned at the screening interview.

12. The Respondent refused the Appellant's application for protection.

13. The Appellant appealed to the IAC.

14. The Appellant attended the appeal hearing before the First-tier Tribunal, and was represented.
15. The appeal was dismissed for the reasons set out in the 'Decision and Reasons' of Judge Young-Harry promulgated on 11 May 2018.
16. In respect of the change to the basis of claim, the Judge made the following observations at paragraphs 18-20:
 18. *The appellant failed entirely to mention in the screening interview the incident involving [S]; an incident which now appears to be the central thrust of his claim.*
 19. *The appellant refers only to the family dispute in the screening interview. He claims it began between 1992 and 1994 and 2 people were killed. He states because his father was concerned for his safety, he instructed him to leave the village. He goes on to state that if the dispute is resolved he would be happy to return to Pakistan. The appellant's screening interview was conducted on the 20th March 2017 and the rape allegation was made in 2013.*
 20. *I find had the appellant genuinely been concerned about [S]'s family in Pakistan and the police in Pakistan, he would have mentioned this in his screening interview. I find the fact that the appellant failed entirely to mention what now appears to be the central part of his claim, leads me to doubt his claim. I find this failure significantly damages his credibility".*
17. The Judge made further reference to this failure at paragraph 23, stating that it "*suggests that this story is a recent fabrication, introduced after the screening interview in an attempt to bolster his weak asylum claim*". The Judge then concludes "*I find his account is entirely incredible and without merit*" (paragraph 25).
18. Notwithstanding these observations in respect of the presentation of the Appellant's asylum claim, the Judge also gave consideration to elements of the Appellant's narrative account upon which he now relied. In this regard the Judge found that the Appellant could not explain why, if an FIR had been filed against him in 2013 and his parents had known about it at that

time, they had not informed him about it until 2015 (paragraphs 26 and 27). The Judge found that the Appellant was simply trying to explain away some of the time that had elapsed between the events that he relied upon and his making of the asylum claim. Indeed, the Judge found the delay in making the asylum claim to be an adverse factor in the assessment of credibility (paragraph 28).

19. The Judge also gave consideration to the documents produced by the Appellant. Applying the principle in **Tanveer Ahmed**, the Judge concluded that he could not attach weight to the First Information Reports produced by the Appellant, or a summons, noting again the Appellant's failure to make any reference to these matters in the screening interview, and not even having produced such documents at his later substantive interview.

20. At paragraph 30 the Judge also made this observation:

"The appellant, for the first time in his witness statement, claims that [S]'s family are influential and have political connections in Pakistan. There is nothing elsewhere in the evidence to suggest that her family are rich or influential. I do not accept this claim. I find the appellant has added this in order to explain why internal relocation is not viable".

21. The Appellant applied for permission to appeal to the Upper Tribunal which was granted on 22 June 2018. The grant of permission to appeal essentially distils the grounds of appeal and identifies three aspects of challenge. The three bases of challenge are essentially these:

(i) The First-tier Tribunal Judge arguably erred in law in "*bestow[ing] a considerable weight*" on the Appellant's failure to mention the core component of his asylum claim at the time of the screening interview.

(ii) The Judge erred in attaching weight to the apparent late introduction of the evidence that [S]'s family was influential and politically connected in Pakistan.

(iii) The Judge had not given adequate consideration to, or otherwise explained his findings in respect of, the Appellant's offered an explanation for delay in claiming asylum - that he had had no money, and had gone to four solicitors who had asked for money to help which he could not pay them.

22. I do not find that any of those lines of challenge have any merit.
23. In my judgement it was entirely a matter for the First-tier Tribunal to consider what weight to attach to the manner in which the Appellant's asylum claim and the elements of it emerged as between the screening interview and the substantive interview.
24. Whilst of course it is the case that the screening interview is very much a preliminary stage of the process, and that a degree of caution needs to be exercised in considering the contents of the screening interview both generally and in terms of comparing it to what might later emerge, this was not a case where the Appellant had just arrived in the United Kingdom after a lengthy or difficult journey. Far from it; he had been present in the United Kingdom for a significant period of time.
25. Whilst, as I have observed above, it is not clear to me the exact circumstances in which the Appellant came to make his application for asylum, it seems to me that realistically there are only two possibilities. If this was not a 'planned' claim for asylum - that is to say it was made subsequent to some sort of unexpected arrest or detention - then the 'section 8' considerations are that much more adverse. If, however, it was an application made of volition, then it is inevitably adverse that the Appellant was not able to articulate the basis of his claim clearly, or indeed had not made arrangements to ensure that he had supporting evidence with him when he presented himself to the Secretary of State.
26. I also recognise and acknowledge that the purpose of the screening interview is not to obtain full details of an asylum claim but just the essential elements.
27. However, in the instant case the essential elements subsequently relied upon were not referred to at all. This was appropriately and understandably the focus of the deliberations of the First-tier Tribunal.
28. Indeed, it seems to me that the nature of the difficulty for the Appellant's case goes further than simply not mentioning these matters: not only was there no mention of the basis of the core claim as later articulated, but the Appellant's comments and observations at the screening interview are inconsistent with the details claimed later. In particular it is to be noted

that the Appellant indicated that absent the family dispute that had commenced in 1992 to 1994 he would be "*happy to go back to Pakistan*". Necessarily this is an indication that there was nothing else that might prevent his return to Pakistan. Similarly, his statement that there were no offences of which he had been accused is inconsistent with his claim to be the subject of outstanding FIRs in Pakistan.

29. Accordingly, I find nothing of substance in the first line of challenge identified in the grant of permission to appeal.

30. In respect of the second line of challenge, I do not accept that the Appellant's comments in his witness statement as to the influence of S's family were merely an additional element, or elaboration, upon what he had said at the asylum interview, and so could not be seen as adverse. In my judgement it is apparent that his claim in his witness statement as to the influence of S's family contradicted his evidence in the substantive asylum interview. In the interview the Appellant was expressly asked about the S's family's influence at question 83:

"Q. Does [S] family have any influence over the government or authority in Pakistan.

A. I have no idea maybe her brother or father".

31. In any event, it seems to me that such a matter is essentially peripheral to the core element of the Judge's reasoning.

32. In my judgement the third line of challenge is also essentially peripheral.

33. It is to be acknowledged that the First-tier Tribunal does not in terms engage with the Appellant's offered explanation as to why he had not previously sought asylum. However, I note in the first instance that the mere inability to afford a representative does not provide an adequate or reasonable explanation for not seeking protection in circumstances where a person's presence in the UK is otherwise unlawful. Even if it might be said that the Appellant's comments provided some element of explanation for delay in claiming asylum, it does begin to offer any explanation why, when an application was eventually made, it was initially presented not only without mentioning the real substance of the claim, but in fact offering answers at the screening interview that were inconsistent with the

real subject of the claim. The Judge's failure expressly to engage with the Appellant's evidence on delay is essentially immaterial.

34. For all these reasons I can find no basis for impugning the decision of the First-tier Tribunal.

Notice of Decision

35. The decision of the First-tier Tribunal contained no error of law and accordingly stands.

36. The Appellant's appeal remains dismissed.

37. No anonymity direction is sought or made.

The above represents a corrected transcript of ex tempore reasons given at the conclusion of the hearing.

Signed:

Date: **27 April 2019**

Deputy Upper Tribunal Judge I A Lewis