



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/13720/2017

THE IMMIGRATION ACTS

Heard at Bradford  
On 19 November 2018

Decision & Reasons Promulgated  
On 02 January 2019

Before

UPPER TRIBUNAL JUDGE LANE

Between

ATIQ AJMAL  
(ANONIMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr O'Brien

For the Respondent: Mr Tan

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan. The appellant challenges the decision of Judge Bradshaw sitting in the First-tier Tribunal. I shall deal with the grounds of appeal in the order in which they were raised by Mr O'Brien who appeared for the appellant before the Upper Tribunal.
2. Mr O'Brien submitted that Judge Bradshaw had placed excessive weight upon the appellant's delay in claiming asylum as determinative of his credibility as a witness. The judge refers to the delay repeatedly throughout her decision and applied *Ahmed*

[2002] UKIAT 00439 [66]. She considered the FIR document and subsequent arrest warrant adduced by the appellant and found that it carried little evidential weight when examined in the round and in the light of the appellant's delay and consequent lack of credibility. In response to a question which I put to him, Mr O'Brien accepted that delay in claiming asylum may be relevant to the assessment of credibility; his submission is that the judge treated the delay as determinative of credibility. Further, he submitted that the Secretary of State had accepted that the appellant is a member of the United Kashmir People's National Party (UK PNP). I note that Judge Bradshaw [47] also accepted (which the Secretary of State did not) that the appellant was a member of the student wing of the UK PNP. Neither the Secretary of State nor Judge Bradshaw accepted that the appellant was the general secretary of the PUK PNP as he had claimed. Mr O'Brien submitted that the concession by the Secretary of State that the appellant had some basis for his claim (that he was involved in Kashmiri separatist politics, albeit not at the level or with the profile claimed) set this case apart from that of an individual who, apprehended for working illegally, invents an asylum claim without any basis in order to frustrate his or her removal.

3. An applicant's immigration history including a delay in claiming asylum may be so egregious as to render an individual without credibility as to the core of a claim for asylum. The question here is whether the fact that the appellant has been engaged in opposition politics, albeit in the view of the Secretary of State only as a member, in some way negates or reverses the damage to his credibility caused by the delay in claiming asylum. Having read Judge Bradshaw's decision very carefully, I find that it was open to her to place weight on the appellant's delay and subsequent failure to explain coherently that delay. Mr O'Brien submitted that the judge had failed to take any account at all to an injury suffered by the appellant which he claimed had taken some time from which to recuperate and which had contributed to his delay in claiming asylum. Mr Tan, for the Secretary of State, submitted that there was no evidence to suggest that the injury was so severe to incapacitate the appellant such that he was unable to claim asylum. I agree with Mr Tan. There is no evidence to show that the appellant's injury was such that it had any effect upon his ability to claim asylum. Further, I cannot see that the fact that the appellant has been accepted as a member of the UK PNP in any way reduces the weight which the judge found should attach to his failure to claim asylum at an earlier date. The appellant is an intelligent and educated man who came to the United Kingdom as a student. He attempted to extend his immigration status but failed. Thereafter, he chose to remain in the United Kingdom illegally and to work illegally at a shop. Further, the judge found that the appellant had given a number of different explanations for claiming asylum at an earlier date. As early as February 2014 the appellant claimed that he had received details of a threatening letter from a mullah of a local mosque in Pakistan concerning the appellant's separatist activities. He claimed to have found out in May 2014 that an IR had been filed against him. However, the appellant had also said that he had left Pakistan to come to the United Kingdom at a time when he was fearful of remaining in Pakistan. Whilst the threat to him in Pakistan may, therefore, have increased (coincidentally) just before the appellant happened to be detained for illegal working, he had reason to seek asylum at a much earlier date.

Two witnesses had given evidence in support of the appellant. Mr [Y] failed to persuade the judge that he knew very much about the appellant's activities in Pakistan [61]. Mr Ahmed also "took the matter no further" [62]. The judge fully acknowledged [63] that the appellant's uncle (Mr [Y]) had successfully claimed asylum in the United Kingdom on account of his own involvement in Kashmiri independence politics. However, the judge found:

"His own asylum claim [i.e. that of Mr [Y]] and his evidence was tested and accepted and had a successful appeal but if he had sincerely believed what the appellant told him had happened to him in 2009, the threats to his life before he left Pakistan, the various documents which appeared to support what the appellant claims and that his activities in the UK had led to the issue of the FIR and an arrest warrant against him in 2014, then it is simply not credible that he would have advised the appellant to apply for further leave to obtain what he described as "legal status" in the UK rather than claim asylum if he was in fear of his own life on return. I do not accept that his uncle saw asylum in a different light. Both the appellant and his uncle knew and understood about claiming asylum. The appellant had a clear choice when his application for further leave was refused on 12 February 2014 if indeed his life was in danger on return and that he was not to go into hiding but to make a claim for asylum as his uncle and friend had done."

4. The appellant had come to the United Kingdom and lived with Mr [Y], his uncle, and his aunt. Significantly, the judge found that both the appellant and the uncle were well aware of the nature of an asylum claim and how this might differ from making another application for further leave to remain. The judge was fully entitled to make those findings on the facts. This was not a case where the appellant is able to plead ignorance of the asylum system operating in a foreign country about which he knows very little and when he has no family members or friends to advise him as to the best course of action. On the contrary, the appellant's uncle had passed through the asylum system yet, notwithstanding the appellant's claim that he left Pakistan in fear of his life, appears to have encouraged the appellant not to apply for asylum but instead to remain living and working illegally in the United Kingdom. On the particular facts of this case, I am satisfied that Judge Bradshaw was entitled to place significant weight on the appellant's delay in claiming asylum. Whilst she does not say so in terms, it is the obvious conclusion from her findings that the appellant would never have claimed asylum had he not been apprehended for working illegally. In my opinion, the appellant's conduct within the United Kingdom itself was such as to satisfy the judge that the appellant did not have a genuine fear of returning to Pakistan.
5. Mr O'Brien submitted that the judge had erred in her treatment of the documents provided by the appellant. These consist of an FIR and subsequent arrest warrant and also newspaper reports. Mr O'Brien submitted that the judge appeared to rely upon the mere possibility that the documents may have been forged [65] as indicating that they should be given no weight at all.
6. I find that the judge has approached the documents in accordance with the established practice in *Ahmed* (insert reference). I have no reason to disbelieve the

judge when she says that she considered the documents “in the round” with the other evidence. I find that the judge was entitled to find that she could,

“... attach little weight to [the documents] because the appellant’s failure to provide a credible explanation for his failure to claim asylum until forced to do so and none of the documents when taken in the round demonstrate that mere involvement at the relatively low level of the appellant puts him at risk ...”

I also agree with what she says regarding the newspaper extracts; the appellant had not filed full copies of the various newspapers, thereby limiting significantly the probative value of the documents.

7. The third issue raised by Mr O’Brien appears less contentious. At [69], the judge found that there would be a sufficiency of protection even if the appellant was to be believed and that an FIR and arrest warrant had been issued in Pakistan. Mr Tan accepted that it is unlikely that the appellant would enjoy such protection from the state authorities of Pakistan if an arrest warrant had been issued against him for separatist activities. However, I find that Judge Bradshaw’s alternative and comprehensive finding on sufficiency of protection does not undermine her decision because I find that the judge was entitled to conclude that, beyond his claim to be a member of the UK PNP, no other part of the appellant’s claim could be believed and that the appellant himself did not have a subjective fear of returning to Pakistan.
8. The judge made findings [72] regarding Article 8, ECHR. Those findings are not challenged before the Upper Tribunal.
9. In conclusion, I find that the appeal should be dismissed.

**Notice of Decision**

10. This appeal is dismissed.

Signed

Date 25 November 2018

Upper Tribunal Judge Lane

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

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

Signed

Date 25 November 2018

Upper Tribunal Judge Lane