



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

Appeal Number: PA/14283/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 15 July 2019**

**Decision & Reasons Promulgated
On 30 July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

**MG (PAKISTAN)
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr Lawrence Tarlow, Senior Office Presenting Officer

DECISION AND REASONS

1. The appellant has been granted permission to appeal out of time from the decision of the First-tier Tribunal (Judge Obhi sitting at Birmingham on 1 March 2019) dismissing his appeal against the refusal of his protection and human rights claims.

The Reasons for the Grant of Permission to Appeal

2. Permission to appeal was sought on two grounds. The first was that the Judge ought to have granted an adjournment to enable the appellant to gather further evidence. The second was that the Judge did not give

adequate reasons. Judge Pedro granted permission on ground 2, but not on ground 1. His reasoning on ground 2 was that the appellant was unrepresented in the appeal (although he had been represented before the First-tier Tribunal) and while the Judge had given adequate reasons for her decision to dismiss the appeal under the Refugee Convention, it was apparent that she had made no findings or decision in relation to the appellant's human rights grounds. He continued:

“This is an arguable error of law although consideration would need to be given to its materiality and any possible effect on the outcome of the appeal.”

Discussion

3. There was no appearance by the appellant at the hearing before me to decide whether a material error of law was made out. Having perused the file, I was satisfied that the Upper Tribunal had taken reasonable steps to notify the appellant of the time, date and place of the hearing; and that it was in the interests of justice to proceed to determine the appeal in his absence.
4. By finding that the appellant did not qualify for recognition as a refugee, and that he had fabricated his asylum claim, the Judge implicitly found that the appellant would not face a real risk of death or serious harm at the hands of non-state agents on return to Pakistan, contrary to Articles 2 and 3 ECHR.
5. The complete rejection of the asylum claim also necessarily entailed that the appellant did not succeed in a private life claim under the rules. He had only been in the UK since 2009. His family remained in Pakistan. Accordingly, there were not very significant obstacles to his reintegration into life and society in Pakistan, and his Counsel did not suggest that there were any such obstacles. The Judge records Counsel for the appellant as only making closing submissions in respect of the protection element of his claim.
6. With regard to a claim outside the rules, not only was such a claim not advanced in closing submissions, but it was bound to fail on the facts. The appellant had entered the UK as a student. His application for leave to remain as a student made on 29 June 2011 had been refused with a right of appeal, but he had not exercised a right of appeal. He had remained in the UK unlawfully, and on 27 September 2017 he had come to the attention of the authorities when he was arrested for working illegally. After he had been notified of his liability to removal as an overstayer, he had made a claim for asylum on 2 October 2018. He did not have any family ties in the UK which could render his removal disproportionate. Realistically, the only ground upon which he could resist removal was if his protection claim was found to be credible. The Judge gave adequate reasons for finding his protection claim to be incredible.

7. For the above reasons, the decision is not vitiated by a material error of law.

Notice of Decision

The decision of the First-tier Tribunal did not contain an error of law, and so the decision stands and this appeal to the Upper Tribunal is dismissed.

Anonymity

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 28 July 2019

Deputy Upper Tribunal Judge Monson