



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

Appeal Number: PA/52733/2020  
(UI-2021-001775); IA/02409/2020

**THE IMMIGRATION ACTS**

**Heard at : Field House  
On : 15 August 2022**

**Decision & Reasons Promulgated  
On : 28 September 2022**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**ANK  
(Anonymity Order made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Z Raza, instructed by Marks and Marks Solicitors  
For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision refusing his asylum and human rights claim.
2. The appellant is a citizen of Pakistan, born on 6 October 1996. He arrived in the UK on 4 February 2017, with leave to enter as a Tier 4 student until 26 October 2020. He claimed asylum on 21 November 2019 and as a result his leave was curtailed to expire on 11 May 2020. His claim was refused on 8 October 2020.

3. The appellant's asylum claim was made on the basis of a fear of persecution due to his sexuality. He claimed to have entered a gay relationship with a male school friend, A, in late 2014, when A helped him pass through a tough time after his father had died. He claimed that his cousin NK found out about his sexual orientation as a result of looking through his text messages with A on his phone. His cousin subsequently stabbed him in his ankle with a screwdriver and then continued to threaten him and slap him. NK said if he was caught again he would involve his uncle and tell his family. He also heard that NK approached A and punched him. In February 2016 his relationship with A ended. He left Pakistan in 2017 using his own passport. Between 2016 and 2018 he transitioned from Muslim to atheist because of Islam's teachings about homosexuality. He believes that his mother may know about his sexuality. His brother in the UK knows that he is gay and has accepted it. He had not had any gay relationships in the UK but he had been attending meetings with a group called LGIG. He would be discreet about his sexuality if he returned to Pakistan. He feared his cousin and uncle in Pakistan as his uncle was connected in Pakistan and had managed to track down his sister after she ran away and had a love marriage and had her and her partner handed over by the police to her family who tortured them.

4. The respondent, in refusing the appellant's claim, did not accept his claim to be homosexual and did not accept his account of threats from his cousin. The respondent did not accept that the appellant would be at any risk on return to Pakistan and considered that his removal would not involve a breach of his human rights.

5. The appellant appealed against that decision and his appeal was heard by First-tier Tribunal Judge Anthony on 29 June 2021. The appellant gave oral evidence before the Tribunal, as did his brother MK. The judge did not find the appellant to be a credible witness and rejected his claim to be gay. She considered that he would be at no risk on return to Pakistan and that he would not encounter any very significant obstacles to integration in Pakistan. She dismissed the appeal on asylum and human rights grounds.

6. Permission was sought on behalf of the appellant to appeal the decision to the Upper Tribunal on three grounds: firstly, that the judge had made perverse/irrational findings on material matters; secondly, that the judge had failed to give adequate reasons for findings on material matters; and thirdly, that the judge had made mistakes on material facts.

7. Permission was granted in the First-tier Tribunal and the matter then came before me for a hearing. Both parties made submissions which are addressed in the discussion below.

## **Discussion**

8. It was Mr Whitwell's submission that the grounds were "cherry-picking" when challenging specific parts of the judge's findings, whereas what was necessary was to stand back and consider her findings a whole. I am entirely in agreement, since a consideration of the decision as a whole shows that the

judge undertook a full and detailed assessment of all the evidence, including the appellant's written and oral evidence and the evidence of his brother, that she had careful regard to the guiding principles in the relevant jurisprudence and that she gave clear reasons for her findings. She reached her conclusions on the basis of all aspects of the appellant's claim in the round (as she said at [53]), providing comments and observations on the various parts of his claim, and finding overall that he had failed to demonstrate a credible account of being gay.

9. It is relevant to consider that the judge had regard, at [16], to the timing of the appellant's claim and the revelation of his sexuality, noting that his own evidence was that he had made his claim at a time when he was facing return to Pakistan owing to an inability to continue his studies for financial reasons, and at [47], his brother's evidence that he had assisted the appellant to search online for ways to stay in the country. At [41] and [42] the judge noted the appellant's hesitation in revealing his sexual orientation to anyone in the UK and at [48] to [51] she had regard to the lack of any evidence of involvement with the gay community in the UK and attendance at related events. At [49] she had regard to the fact that it was only when he made his asylum claim that he had approached UKLGIG (which I note is a charity that provides support for LGBTQI+ people through the asylum and immigration process). At [44] and [45] the judge noted the evidence that the appellant had never had a gay relationship in the UK and that, whilst he referred at the hearing to having had "minor physical interactions", he had never mentioned that when interviewed about his claim. The judge noted at [46] the discrepancy between the appellant's claim to be an atheist and to have stopped following Islam between 2016 and 2018 because of Islamic views on homosexuality, and his evidence that he attended a religious pilgrimage in Iran in late 2016. A further contradiction was noted by the judge at [40] when considering the reaction of the appellant's cousin NK on discovery of his sexual orientation and relationship, as compared to the reaction of the family previously when discovering his sister's love marriage.

10. These observations and findings were largely unchallenged in the appellant's grounds, but it was in the context of these various adverse matters that the judge made the findings which the grounds seek to challenge. It was in the context of these matters that the judge found the appellant's account, of how he discovered he was gay and how his relationship with A commenced, to lack credibility. The grounds take those findings out of context. The grounds criticise the judge for not providing a proper reflection of the appellant's evidence in his witness statement about how the relationship started and assert that she erred by considering the appellant's grief over his father's death as the only factor which led to the closeness of the relationship. However, the judge plainly gave full consideration to the appellant's evidence in his statement. She addressed that evidence directly at [27]. The point she made at [29] was that that explanation did not provide a credible explanation of how the friendship had developed into a sexual relationship and how the appellant came to realise his own sexual orientation, particularly in the context of the country information about Pakistan and homosexuality to which she referred at [35].

11. At [34] the judge commented that the appellant's narrative had not included any description of feelings of difference and otherness as would be expected of a person discovering that he was gay. The grounds wrongly assert that the appellant had in fact expressed such feelings, as mentioned by the judge at [30] to [32], referring to his feelings of fear, confusion and shame, and that she had therefore made contradictory findings. However, at [30] to [32] the judge was referring to the appellant's reaction to his realisation of being gay, whereas at [34] she was referring to his feelings leading to his awareness of his sexual orientation, which were clearly different issues, and there was therefore no contradiction as the grounds assert. It seems to me that the judge was perfectly entitled to consider that the appellant's evidence lacked any persuasive explanation as to his realisation of his sexuality and that, in the context of the various other issues she had set out in her decision, it was entirely open to her to conclude that he had not presented a credible account of being gay.

12. For all of these reasons I do not consider that the grounds identify any errors of law in the judge's findings and conclusions, and I agree with Mr Whitwell that this is essentially a disagreement with the judge's decision. The judge plainly had regard to all the evidence and considered it in the round, reaching conclusions which were fully and properly open to her on the evidence before her. I find no errors of law in her decision and I upheld her decision.

## **DECISION**

13. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

### **Anonymity**

The anonymity direction made by the First-tier Tribunal is maintained.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Dated: 16 August 2022