



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2022-002628
(PA/50915/2021); IA/02510/2021**

THE IMMIGRATION ACTS

**Heard at Field House
On the 28 October 2022**

**Decision & Reasons Promulgated
On the 17 November 2022**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**AA
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Afzal of AR Law Chambers

For the Respondent: Ms S Lecointe, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of First-tier Tribunal Judge Sweet dismissing his appeal against the respondent's decision to refuse his asylum and human rights claim.

2. The appellant, a citizen of Pakistan born on 1 January 1980, claimed asylum on 4 July 2019, having first entered the UK in April 2012 on a visa valid until August 2012 and having been refused further leave to remain and subsequently served with removal papers as an overstayer in September 2013.

3. The appellant's asylum claim was made on the basis that he was at risk on return to Pakistan owing to his sexuality. He claimed to be gay and to have had sexual relationships with males in Pakistan as a result of which he was threatened by his family members. He claimed to have been in a stable relationship with a male partner in the UK since 14 February 2017. He feared being arrested and tortured by the police if he had to return to Pakistan.

4. The respondent refused the appellant's claim in a decision made on 12 February 2021, in which it was concluded that his evidence was inconsistent and lacking in credibility. The respondent rejected the appellant's claim to be gay, did not accept his claim to have been threatened by members of his family due to his sexuality and considered that he was at no risk on return to Pakistan.

5. The appellant appealed against that decision. His appeal came before First-tier Tribunal Judge Sweet on 10 May 2022, following two prior adjournments. There was no appearance at the hearing by the appellant or his legal representatives. The judge was satisfied that notice of the hearing had been given to both and decided to proceed with the appeal, hearing submissions from the respondent's representative. In a decision dated 14 May 2022, Judge Sweet found there to be inconsistencies and discrepancies in the appellant's account which led him to conclude that the claim was not a credible one and that the appellant had failed to show that he was at risk in Pakistan on the basis of his sexuality. The judge accordingly dismissed the appeal on all grounds.

6. The appellant sought permission to appeal to the Upper Tribunal on the grounds that the judge had failed to give adequate reasons for his findings of fact and that there had not been a fair hearing as neither he nor his legal representative had received notice of the hearing. It was asserted in the grounds that, following a change in the appellant's legal representatives and the adjournment of a previous hearing, the Tribunal's online portal 'My HMCTS' had for some reason automatically struck out the details of the new representatives and had failed to update when the details were again provided.

7. Permission was granted in the First-tier Tribunal and the matter then came before me.

8. At the hearing, Mr Afzal produced a statement from a caseworker at AR Law Chambers explaining the issues with the My HMCTS portal. Ms Lecointe advised me that she did not understand how the portal worked. In the circumstances it was agreed that there may well have been an issue with the appellant and his legal representatives being informed of the hearing date and that, on grounds of fairness, the decision in the appeal ought to be set aside and re-made at a hearing attended by the appellant and his legal representatives. All parties

were in agreement that the matter should be remitted to the First-tier Tribunal for a fresh hearing.

DECISION

9. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law and the decision is set aside. The appeal is remitted to the First-tier Tribunal pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), to be heard afresh before any judge aside from Judge Sweet.

Anonymity Order

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant without that individual's express consent. Failure to comply with this order could amount to a contempt of court.

Signed: S Kebede

Dated: 28 October 2022

Upper Tribunal Judge Kebede