



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: UI-2021-000816
PA/01290/2020

THE IMMIGRATION ACTS

**Heard at Field House
On 1 July 2022**

**Decision & Reasons
Promulgated
On 31 August 2022**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**MA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr A Swain, Counsel instructed by Synthesis
Chambers

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is appealing against the decision of Judge of the First-tier Tribunal Chana promulgated on 20 July 2021.
2. The appellant is a citizen of Pakistan who claims to face a risk of persecution on account of being a gay man. He claims, in particular, to face a risk from the family of his former partner. He claims, inter alia, that in 2019 his former partner returned to Pakistan voluntarily, following which he was killed by his family.
3. Judge Chana found that the appellant was being untruthful and rejected his account in its entirety.

4. The appellant advanced, and was granted permission to appeal in respect of, four grounds of appeal. It is unnecessary for me to consider these because for an entirely unrelated reason Mr Tufan conceded the appeal and expressed the view (shared by Mr Swain) that the matter should be remitted to the First-tier Tribunal to be heard afresh.
5. The reason identified by Mr Tufan is that in paragraph 55 of her decision Judge Chana rejected the appellant's claim that his former partner returned to Pakistan in 2019. The judge stated that she did not find it credible that he would return voluntarily to Pakistan given his claim to be at risk of death. Mr Tufan stated that the respondent's records show that the appellant's partner did in fact return to Pakistan voluntarily on 11 April 2019. Mr Tufan handed up a print out from the respondent's records which confirms this.
6. I am satisfied that it is consistent with the principles in *Ladd v Marshall* [1954] 1 WLR 1489 to admit the evidence provided by Mr Tufan and that, in the light of this evidence, it is apparent that the decision is undermined by a mistake of fact in the sense identified in *E and R v Secretary of State for the Home Department* [2004] EWCA Civ 49. I agree with Mr Tufan that the error of fact undermines the credibility findings such that they will need to be made afresh. Accordingly, in accordance with the view of both parties, I have decided to set aside the decision without any findings preserved and to remit it to the First-tier Tribunal to be heard afresh by a different judge.

Notice of decision

The decision of the First-tier Tribunal is set aside with no findings preserved. The appeal is remitted to the First-tier Tribunal to be made afresh.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the appellant or any member of the appellant's 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

D. Sheridan
Upper Tribunal Judge Sheridan

Dated: 1 July 2022