



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2023-001536
First-tier Tribunal No: HU/57631/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

12th February 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE BLACK

Between

R A
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Coleman, (Counsel instructed by Paul John & Co solicitors)

For the Respondent: Ms H Gilmour (Senior Home Office Presenting Officer)

Heard at Field House on 7 February 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant (*and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified*) 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 (*and/or other person*). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS **RE MAKING**

1. This is an appeal against the decision issued on 5 April 2023 by the First-tier Tribunal Judge Parkes (“the Judge”) which dismissed the appellant’s appeal against a refusal by the respondent of his application under human rights with reference to Article 8.
2. The appellant, whose date of birth is 4.6.1981, is a citizen of Pakistan, claimed that he had been resident in the UK for over 17 years (of which he had lawful leave for just over 9 years) having entered into the UK in 2006. In addition, he had medical problems and it was argued would face difficulties on return to Pakistan. The issues were whether or not the appellant met paragraph 276ADE (1)(iii) and (vi) and /or Article 8 outside of the rules.
3. In a decision and reasons dated 9 November 2023 the Upper Tribunal (UT) found an error of law by the failure to give any or any sufficient weight to the length of lawful residence from 2006 – 2015 in the UK (just less than 10 years), a material factor in the balancing exercise (Ruppiah [2018] UKSC 58) and the failure to consider the objective evidence as to availability and accessibility of medical care in Pakistan (See CPIN September 2020), in the context of the appellant having no financial support available to him in Pakistan. The UT set aside the Judge’s decision and the matter was listed for submissions on Article 8. The findings made in the First tier Tribunal were preserved and it was agreed that the appellant entered the UK in 2006. Accordingly, I heard submissions from both representatives, the focus of which was Article 8 outside of the Rules.

Discussion and decision

4. The appellant has now resided in the UK for at least 18 years. He entered lawfully as a student and was granted leave for a period of 9 years. There after he has remained living in the UK without lawful leave and as an overstayer for 9 years from 2015. It is agreed that he fails to meet either the 10 year or 20 year long residence rules. He is receiving treatment for depression by way of “talking therapy”. He has close family living in Pakistan. He is financially supported by friends in the UK. He has gained good academic qualifications whilst in the UK. He has a strong network of friends in the UK and has been involved in charitable work for the community. He left Pakistan when he was 25 years of age.
5. I am satisfied that by reason of the length of residence and connections made in the UK that his private life in the UK is worthy of respect. There are no Suitability issues, he speaks English, has been independent financially, has made some positive contribution to society and put down roots. However, he would be able to continue those relationships from out of the country and establish new connections with friends and family in

Pakistan. He would be able to secure employment using his qualifications and be supported by his family during the initial period of settlement in Pakistan. As he has lived in Pakistan for a significant period of his life, and as an adult, he would be able to reintegrate without major difficulty. There would be no cultural, linguistic or religious issues.

6. In terms of the mental health system in Pakistan, I have considered the CPIN dated September 2020 in which it confirms that public and private treatment is available, and that the system is similar to that in the UK. The appellant would be able to access treatment either for free or by paying for it (CPIN 4.12). His mental ill health does not require any specialist psychiatric treatment or input or hospital admission (CPIN 4.12.9) but psychiatric hospitals and counselling/therapy are available. The appellant has received treatment from his GP and counselling by telephone and on line programmes for stress management, generalised anxiety disorder and depression and he has been prescribed anti depressants (Page 134). His CBT was completed in December 2023 but he was referred for ongoing support (page 140). I reject the argument that he would not be able to access treatment without family support and /or that the stigma would lead to his not accessing support. As an adult there is no reason why he would not be able to access such help without support from others albeit that there are limited resources available as psychiatric problems are widespread. The article from the Lancet produced by Mr Coleman was of little assistance as it focused largely on services for women, albeit that I accept that resources are stretched. Although Article 3 was not argued the evidence falls well short of such a claim.
7. On the evidence before me the appellant would be able to reintegrate and have the capacity to participate in life in Pakistan. I conclude that there are no very significant obstacles to his reintegration in Pakistan.
8. In considering Article 8 outside of the Rules having regard to his private life including on medical grounds, I find no unjustifiably harsh consequences in the event of his removal. This is an elevated threshold to be met and on the evidence before me it cannot be met. The length of time living in the UK is a strong factor in favour of his private life and I place weight on the fact that at least half of his time was with lawful leave and that he was just short of establishing 10 years lawful residence. However, his residence has throughout been precarious; as a student his position, whilst lawful, was nevertheless precarious given that he was required to confirm his intention to leave the UK. Thereafter he has remained as an overstayer for 9 years since 2015. In considering section 117B factors as stated above, the fact that he speaks English and is financially independent are neutral factors. I have placed weight on the total length of residence and the fact that half of which was with lawful leave. He has some mental ill health issues for which he can access treatment in Pakistan. However, there is no expert medical evidence or evidence of any particular depth or connection within his private life that amounts to anything exceptional by way of a particularly strong private life capable of overriding the public interest.

9. I have considered all the factors separately and cumulatively and conclude that Article 8 outside Rules is not engaged and that having regard to the public interest there is nothing that takes the appellant's appeal into the range of rare cases where his interests outweigh the public interest.

Notice of Decision

10. The appeal is dismissed.

G.A. Black
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

9 February 2024