



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2024-000981

First-tier Tribunal No:
HU/56807/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 17th of October 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE SYMES

Between

**AKHTAR HUSSAIN
(No anonymity order made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Richardson
For the Respondent: Mr T Melvin

Heard at Field House on 16 September 2024

DECISION AND REASONS

1. This is the appeal of Akhtar Hussain, a citizen of Pakistan, born 1 May 1971, against the decision of the First-tier Tribunal of 29 January 2024, itself brought against the Respondent's refusal of his human rights claim on 23 May 2023.
2. The Appellant's application was as the durable partner of Maria Elisabete Soares Vincente Khan, a British citizen of Portuguese origin, born 11 May 1973, and was based on the insurmountable obstacles or

very significant obstacles to integration that the couple, or the Appellant, would face on relocation to Pakistan. The case put was that Ms Khan, who had been raised in Portugal before moving to the UK, was unfamiliar with life in Pakistan and did not speak the language there, having now lived in the UK for 30 years and having established herself in a career here. They both had significant medical conditions which could not be affordably treated there, not least because the Appellant would be unable to find work.

3. The Appellant's immigration history is that he arrived in the UK on 2 February 2008 with leave as a student until 31 October 2009. He departed during that leave for around a month in January and February 2009, and remained here until after his leave expired. A private and family life application of September 2012 was refused in March 2013. He claimed asylum on 28 March 2014, that application being refused on 6 March 2015, his appeal failing. Further submissions were refused in March 2017 and September 2018.
4. The First-tier Tribunal dismissed the appellant's appeal finding the appellant not to be a credible witness. Unfortunately there were a number of errors in the determination such that I set it aside in a determination dated 19 June 2024. Whilst the genuineness of the relationship was in issue before the First-tier Tribunal, that is no longer the case. No findings of fact were preserved and the case was retained in the Upper Tribunal for re-hearing.
5. The Appellant's witness statement summarises his immigration history and health problems. He had formerly worked as an advocate, being a member of The Punjab Bar Council. He had feared for his life after a colleague was killed by the perpetrator on whose case they had both worked. He suffered from Hepatitis C, Liver Cirrhosis, poorly controlled Diabetes C, chronic gastritis stress related illness and severe depression for which he currently took Ranitidine (150 mg tablets), Amlodipine (10mg tablets), Pioglitazone, Lansoprazole, Sukkarto SR, Citalopram (for stress and depression problem), Escitalopram, Ramipril and carvedilol (for high blood pressure). He and Ms Khan met around 2019 and a relationship of affection developed between them; they moved in together in July 2021. Ms Khan supported him ensuring that he took his medication and ate properly. Whilst they had no children of their own she felt that hundreds of children relied on her for their character-building. They could not live together in Pakistan as unmarried partners would not be accepted in society there.
6. Ms Khan's witness statement explains she became a nursery nurse some 13 years ago and had also retained her role of cooking for the children which she had taken up during the pandemic. She worked closely with autistic and special needs children who required one-to-one support and had knowledge and extensive experience in child safeguarding. She cared closely for the Appellant, who was under the care of a liver specialist for regular review, needing long-term follow-up

and investigations in relation to his complex liver problem including check-ups every six months, liver scans every three months, as well as regular blood tests and endoscopy.

7. Supporting evidence includes a letter from Dr Sajjal setting out that the Appellant suffered from Chronic Hepatitis C, Liver cirrhosis, Oesophageal varices secondary to liver cirrhosis, chronic gastritis diabetes mellitus and severe depression secondary to his various chronic significant medical problems. His depression was difficult to manage because of his physical health problems and the stress of his immigration situation. He needed regular active follow up to pick up signs of complications like severe hepatic failure or development of malignancy.
8. Before me Mr Richardson argued that the full force of the medical evidence had not been taken into account, and nor had the fact that a mature woman such as the Sponsor, whose heritage was from Portugal rather than Pakistan, would find it very difficult to learn a new language and would thus be unable to pursue her teaching vocation, having regard to relevant paragraphs of the Respondent's relevant CPIN "Pakistan - Medical and healthcare provisions" (now of July 2024 rather than the September 2020 provided to the First-tier Tribunal). The Sponsor's bank statements showed balances that were adequate to live upon but which provided no space to provide remittances to Pakistan.
9. Mr Melvin for the Respondent provided a useful skeleton argument. Ms Khan could reasonably be expected to learn Urdu in Pakistan and work there, given the Appellant had siblings there to help them integrate. It was not established that the role of a nursery nurse teaching methods or engagement with parents would somehow be different to the Appellant's UK role, putting aside any language barrier which no doubt be, at first, dealt with by locally trained staff. Any relevant medical treatment would be available, including for liver disease and hepatitis, and the Appellant's uncertainty as to his immigration status which doubtless contributed towards his anxiety and stress would be relieved by return to Pakistan.

Decision and reasons

10. Mr Melvin made no serious challenge to the credibility of the Appellant's relationship, which as established at the time of my error of law decision, was now accepted by the Respondent in any event. So the issues before me are whether, based on the facts and country evidence set out above, his expulsion from the UK is contrary to the Immigration Rules either because the couple would face insurmountable obstacles in Pakistan, or because the immigration decision is more broadly unjustifiably harsh.
11. The July 2024 CPIN at §11 sets out that treatment for liver disease is available from a private health company and the Shifa International

Hospital at Islamabad provided integrated care for liver transplants, and care for Hepatitis B and C; the latter was also available at the Agha Khan University Hospital. Scanning facilities were available at several private institutions. I infer from this rather scant evidence (in the sense that this is a country of almost 250 million people and only a handful of medical facilities are listed) that treatment for liver complaints may be available in Pakistan so long as one had the funds available to pay for it.

12. I have found this a difficult case to resolve. There is limited information available as to the Sponsor's degree of UK connection and to the Appellant's true background in Pakistan (his asylum claim having failed in circumstances where the paperwork has not been put before me by either party; Ms Khan refers to him facing threats there due to a case in which he had once been involved in his legal practice but these are unparticularised). However on balance I have concluded that the couple would face insurmountable obstacles to relocation to Pakistan for the following reasons. In so concluding I have regard to the high level of this test as expressed in Ex.2 of Appendix FM to the Immigration Rules: it requires very significant difficulties which could not be overcome or would entail very serious hardship for the applicant or their partner.
13. The Sponsor has no prior connection with Pakistan or the surrounding regime and cannot speak Urdu. At her age it will not be straightforward to learn a new language to the level necessary to pursue a vocational career in a nursery, or to form meaningful friendships outside her home with the Appellant: she would of course have to navigate professional relationships with parents and teachers as well as children. Additionally she would face other barriers, such as unfamiliarity with the working culture and teaching methods in the country. This is a critical factor when assessing proportionality, given that one's vocation is an aspect of one's private life in terms of the ability to form relationships with others and to flourish as an individual within society. It also impacts on the practical question as to how she and the Appellant would be able to support themselves. There is no affirmative evidence from which I can infer that there would be extended family available to offer support to unmarried partners, particularly where the sponsor has no family or social capital herself to draw on in Pakistan. It seems to me that these represent difficulties going well beyond mere personal choice or convenience; a life of social isolation does indeed amount to very serious hardship.
14. The Appellant has significant health problems. Whether or not those problems can be treated in theory in Pakistan, they include mental health issues (which carry a degree of stigma there) such as depression, which in all probability will affect his ability to find and sustain employment, which will represent a further impediment to accessing the medical treatment he needs to sustain his physical health. In fact some of the medication he requires appears to be unavailable in Pakistan: I note that the contention in the Appellant's

skeleton argument hearing to this effect has not been answered by the Respondent. This will foreseeably lead to a significant decline in his already fragile mental health given his documented depression which goes beyond a mere reduction in his standard of living. It will threaten his ability to flourish as a human being and to maintain any social connections whatsoever. It seems to me that to expect the Appellant and Sponsor to live together where the former's mental health will inevitably decline whilst the latter is unable to support them to a level necessary to finance the necessary treatment. This too amounts to very serious hardship.

15. In so concluding I have regard to the considerations identified in s117B of the Nationality Immigration and Asylum Act 2002. The Appellant speaks reasonable English, is financially independent given that the Sponsor supports him, and whilst his UK presence has been at the higher end of the precariousness spectrum for an extended period, he can satisfy the test of "insurmountable obstacles" which Parliament has identified as catering for persons in precisely his situation.

Decision:

The appeal is allowed.

Mark Symes

Deputy Upper Tribunal Judge Symes
Immigration and Asylum Chamber

15 October 2024