



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

Appeal Number: AA/02881/2012

THE IMMIGRATION ACTS

**Heard at Bradford
On 5 August 2013**

**Determination Sent
On 21 October 2013**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

HAMMAD UR REHMAN TALHA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Vaughn, Barry Clark, Solicitors

For the Respondent: Mr J Wardle, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Hammad Ur Rehman Talha, was born on 17 April 1985 and is a male citizen of Pakistan. By a determination dated 16 October 2012, Deputy Upper Tribunal Judge Davey found that the First-tier Tribunal had erred in law and set aside its determination dated 24 April 2012. Judge

Davey directed that none of the findings of fact of the First-tier Tribunal should stand.

2. The burden of proof is on the appellant and the standard of proof is whether there is a real risk the appellant will suffer, respectively, persecution or treatment contrary to the ECHR (in particular, Articles 2 and 3) if he is returned to Pakistan. I have considered all the documentary and oral evidence together as a totality before reaching any findings of fact. I have sought to identify “core parts” of the appellant’s evidence to distinguish these from more peripheral aspects of the evidence. I have examined the account which the appellant has given of past events in Pakistan against the background material relating to that country.
3. I had the papers which the appellant has adduced by way of documentary evidence in the First-tier Tribunal together with the new and additional letter from the Ahmadiyya and Muslim Association UK is dated 14 July 2013. I have considered carefully the country guidance relating to Ahmadis in Pakistan, in particular *MN (Ahmadis - Country Conditions - Risk) Pakistan CG* [2012] UKUT 000389 (IAC).
4. The appellant entered the United Kingdom on 14 September 2007 as a student. He remained with leave as a student until 28 April 2011 when his leave expired. HE Then remained without leave until 15 October 2011 when he contacted Croydon Asylum Screening Unit. His claim for asylum was not registered by the respondent until 23 January 2012.
5. The appellant has been accepted by the respondent as a follower of the Ahmadi religion. The appellant claims to fear persecution or ill-treatment in Pakistan at the hands of non-Ahmadis. The appellant claims to have had a relationship with a woman who used to teach at the same school as the appellant. Her name is Hina. The appellant discussed the Ahmadi faith with Hina in private. The appellant also held a position within a youth organisation working for the Ahmadi community. In May 2004, the appellant was threatened and warned to stop preaching. He continued to preach in defiance of the warning and, on 13 June 2004, he was attacked by mullahs. The appellant attempted to report the incident to the police but they refused to register it or take any action. Thereafter, mullahs came to the appellant’s house and started throwing stones at it and, on 14 July 2004, the appellant was beaten up by mullahs. His brother was seriously injured in the same incident. The appellant moved to Faisalabad in September 2005 but could not stay there because the mullahs continued to search for him. The appellant started to work in a school in his home area again in February 2006 but was again threatened. By this time, Hina had decided that she wished to convert to the Ahmadi faith. In January 2007, the appellant met Hina at the school and continued to preach to her. The appellant told Hina that he could not marry her until she had converted to the Ahmadi faith. The appellant thought that it would be sensible if she were to apply for a student visa to come to the United Kingdom. On 14 August 2011, the appellant claims to have received a telephone call from Hina as her family had found out that she

had tried to convert to the Ahmadi faith and her brothers now intended to kill the appellant. On 24 August 2011, the appellant claims that he was told by his father that mullahs had attacked the house and broken down the front door. The appellant has continued to preach the Ahmadi faith in the United Kingdom including to a friend who is now in the process of converting. He has distributed leaflets in public places.

6. The respondent did not accept the appellant's account as credible. Although she did accept that he was a low level member of the Ahmadi community, the specific incidents to which I have referred above were not accepted as credible by the respondent. The respondent also relied on Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, the appellant having reasonably delayed making a claim for asylum after he had been refused further leave to remain as a student in 2011.
7. The appellant gave evidence in Urdu with the assistance of an interpreter. He adopted his written statement as his evidence-in-chief. He was asked about the most recent Ahmadiyya Association letter which had been provided. He said that he had contacted the local president of the Association in Huddersfield in order to obtain the letter.
8. Cross-examined by Mr Wardle, the appellant was asked whether the Ahmadiyya Association UK had been aware of the incidents in 2004 when the appellant had been threatened. The appellant replied, "they must have been able to find out. But I am not sure."
9. The appellant confirmed that he is living with a cousin in the United Kingdom although, when pressed on this point, he said "[We] are not like blood relations." He then said that the person with whom he is living in the United Kingdom is not his cousin but had accommodated him when he came to the United Kingdom on his student visa. He indicated that he and the individual accommodating him were "distant relations."
10. The appellant had been in fear of his life since 2004. He was asked why he had only applied for a visa to come to the United Kingdom (by his own account in order to seek refuge) in December 2005. The appellant said that his financial situation had not been good before 2005 so he had been unable to apply sooner.
11. The appellant was asked by Mr Wardle how long before he came to the United Kingdom in 2007 had mullahs attempted to abduct him in Pakistan. The appellant replied that it had been about one year before he came here, that is in 2006. Mr Wardle referred the appellant to his witness statement in which he stated that he had met Hina in 2007 and then began to preach to her. I asked the appellant to explain why he should have been the target for abduction in 2006 for preaching to Hina when that incident had occurred a year before he had actually met her. The appellant stated that he had met Hina in 2006; the witness statement indicates that he met her on 14 January 2007. The appellant sought to

explain the difference by saying that he was referring to the time he had begun preaching to Hina; before January 2007, she had not been “mentally ready” to receive the preaching.

12. The appellant was asked why he had left Hina behind in Pakistan if she was in danger of being killed for her interest in the Ahmadi faith. The appellant said “Hina is now a prisoner in her own house.” She had not (as the appellant anticipated would be the case) been killed by her family or others.
13. At paragraph 4.2 of his screening interview, the appellant had been asked when Hina’s parents and family became aware of his religious activities with her. The appellant had replied, “on 13/07/2011 the last time I spoke to this girlfriend I was hoping to marry, she said that her parents are now against me and after my life.” In his written statement at [15] the appellant wrote,

“In the meantime I was always in contact with Hina and she now wanted to become an Ahmadi as soon as possible. My life is now in danger there [in Pakistan] because on 14 August 2011 Hina telephoned me and told me that her family now knew that I had been preaching my religious beliefs to her and tried to convert her into an Ahmadi and we wanted to get married.”

Mr Wardle asked the appellant to explain this apparent discrepancy in his evidence. The appellant acknowledged that the “dates were different”. The appellant said that July 2011 had been the last time when he had spoken with Hina. The appellant was then referred to question 127 of the asylum interview when the appellant had replied, “14 August 2011 I received a telephone call from Hina...” The appellant said there had been a “misunderstanding with the dates.” He claimed that he had been “really depressed” and that this had affected his memory.

14. The appellant was asked about his activities within the Ahmadi community in the United Kingdom including the distribution of leaflets. In his asylum interview [question 157] the appellant had been unable to produce a copy of one of the leaflets because he had said that “next week I will be starting distributing leaflets in North London.” The asylum interview is dated 15 February 2012. Mr Wardle asked the appellant why, since he had been in the United Kingdom since 2007, the appellant had waited until 2012 before beginning to distribute leaflets and actively engaging in the propagation of the Ahmadi faith. The appellant said that this was incorrect. He claimed to have been preaching in the United Kingdom ever since he arrived.
15. The Tribunal reserved its determination.
16. I have considered all the documentary evidence and oral evidence together and find that the appellant is not a witness of truth. I accept (as does the respondent) that the appellant is an adherent of the Ahmadi faith but I do not accept anything that he has told me about incidents which he claims occurred in Pakistan before he came to the United Kingdom in

2007. I do not find that he has attempted to convert Hina or any other individual to the Ahmadi faith. I find that he is a thoroughly unreliable witness.

17. I have reached these findings for the following reasons. The appellant was unable to give a proper explanation for the discrepancies in his evidence which I have referred to above and which were exposed during cross-examination. I have no medical evidence to show that the appellant (who may be suffering from mild depression) is so mentally ill such that his illness interferes with his memory or cognitive functions. I find that the appellant should have been able to have remembered the salient dates in his account when asked to repeat that account on different occasions; his failure to be able to do so is a strong indicator that his account is untrue. He has singly failed to give a consistent account even in his written evidence, and was unable to provide any credible explanation for discrepancies under cross-examination. I consider the discrepancies to be serious because they penetrate to the very core of the appellant's account (his claimed conversion of the woman Hina). I find that had the appellant been telling the truth, he would have been able to have given a consistent account of these events. It follows that I find that the events did not occur as the appellant describes them or at all.
18. The appellant's credibility is also seriously undermined also by his immigration history. I find that it is significant that the appellant, who has been in the United Kingdom for a number of years, should only have considered claiming international protection here when his application for further leave to remain as a student was refused. The appellant claims that he had suffered serious threats and intimidation in 2004 and he has not provided any proper explanation as to why he did not claim asylum upon arrival in the United Kingdom or soon thereafter. I find also that an indication of the appellant's lack of interest in proselytising or preaching his Ahmadi faith is provided by the fact that he waited several years (indeed, until after the commencement of his asylum claim) before assisting the Ahmadi community by distributing leaflets.
19. I have had regard to the letters from the Ahmadiyya Association. I am aware from the Upper Tribunal decision in *MN* that such letters may be of important probative value. I do not consider that to be the case in the present appeal. Two letters sent by the Ahmadiyya Association to assist this appellant. The first letter was sent on 26 January 2012 and confirmed that "according to the information received on 21/12/2011 from our headquarters in Pakistan the person whose details are set out below is an Ahmadi by birth and a bona fide member of the Ahmadi and Muslim community. His reputation in the society, general moral character, conduct and contact with the community were good and he used to participate in its activities. He was a member of our auxiliary organisation Kauddamul Ahmadyya (Ahmadi Youths) in Jahang Sadar Branch. He served voluntarily as the organiser for the Ahmadi children of the Jahang district."

The second letter dated 14 July 2013 noted that the appellant was "connected" to the Kauddamul Ahmadyya and makes no mention of the

Jahang Sadar Branch. It refers to his having worked as an organiser for Ahmadi children (Nazin Atfal) and says also that he worked with the Saiq (assistant guide of Khuddam).

20. Whilst I note that there is some similarity in the contents of the two letters, it is not clear why, for example, the appellant's involvement with the Saiq is not referred to in the first letter. Further, there was no mention made in either of the letters regarding the appellant's claimed difficulties in Pakistan. I find that this is rather surprising given the roles within organisations connected with the Ahmadi community the appellant claims to have occupied. Both letters are written in a standard format; paragraph 4 dealing with the appellant's activities in Huddersfield reads very much like a *verbatim* repetition of information provided either by the appellant or the president of the Huddersfield North Branch of the Ahmadiyya Association. Indeed, if the appellant is as active as he claims to be in his local branch of the Ahmadi community, one might have expected a witness statement or possibly live evidence from the president or other official of the Huddersfield branch of the Association. I am very much left with the impression that both the letters from the Ahmadiyya Association, no doubt written in good faith, do little more than repeat evidence provided by the appellant himself; the evidence does not assist the appellant whom I find to be an unreliable witness.
21. I have to consider the cumulative effect of these findings and observations upon my assessment of the totality of the evidence. I have to formulate a factual matrix upon which to base my conclusions. I find that this appellant has claimed asylum for reasons wholly unconnected with a fear of being persecuted in Pakistan. I find that he is a member of the Ahmadi faith but that he has not been persecuted or ill-treated in Pakistan as he claims or at all. I accept that he may have belatedly become active on behalf of the Ahmadi community in the United Kingdom but I find that there is very strong evidence to show that his motivation for doing so is not spiritual or religious and is instead as a direct consequence of his need to support his asylum claim/appeal. I find that the appellant will not be persecuted in Pakistan as an Ahmadi at least in part because the preaching or proselytising of his religion is of no importance to him. I make the specific finding that he has not and will not in the future refrain from open discourse of the Ahmadi faith in Pakistan for a fear of being persecuted for doing so. I find that it is of no or little concern to him that the threat of persecution may constrain many Ahmadis in Pakistan from an open expression of their faith.
22. I have to consider whether this appellant, bearing the characteristics which I find he possesses, may safely return to Pakistan. I consider the findings which I have made in the context of the background evidence in the country guidance. As the Tribunal in *MN* acknowledged, "it is and has long been, possible in general for Ahmadis to practise their faith on a restricted basis either in private or in community with other Ahmadis without infringing domestic Pakistan law." As I have noted above, this appellant will not find it remotely distressing to return to practise his faith

“on a restricted basis” because the open expression of his faith is not “of particular importance to his religious identity”. In those circumstances, I find that he does not face a real risk of ill-treatment or persecution upon return to Pakistan on account of his religious faith or for any other reason. His appeal is dismissed accordingly.

DECISION

23. This appeal is dismissed on asylum grounds.
24. This appeal is dismissed on human rights grounds.
25. This appellant is not entitled to a grant of humanitarian protection.

Signed

Date 10 October 2013

Upper Tribunal Judge Clive Lane