



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/04356/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 30th August 2013

Determination Promulgated

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Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

RAMIN RAMEZANI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Harrison, Counsel, instructed by Halliday Reeves Solicitors
For the Respondent: Mrs Petterson, HOPO

DETERMINATION AND REASONS

1. This is the Appellant's appeal against the decision of Judge Alis made following a hearing at Bradford on 6th June 2013.

Background

2. The Appellant is a citizen of Iran born on 20th August 1984. He arrived in the UK on 26th March 2013 and claimed asylum. He said that he worked for an agency firm and was subcontracted to work at Kavian Petrochemical as a technical officer from 24th May 2009.
3. The Appellant's claim is that he attended a demonstration in Shiraz on 18th June 2009 following which he was detained and subsequently ill-treated for two months. He was released after signing an undertaking not to file a complaint with the courts or talk to the media or take photographs of his injuries, and returned to his previous work.
4. He began to gather information about corruption and to take photographs of cargo connected to the nuclear program which he felt to be suspicious. On 22nd July 2012 his home was raided and the following day he was told that the security officer had removed his work computer which stored all the photographs and other incriminating evidence. He went into hiding until he managed to leave Iran illegally in March 2013.
5. The judge heard oral evidence from the Appellant, who was represented, and considered the documentary evidence which included a medical report from Dr Lord.
6. The judge made a number of findings in the Appellant's favour. He was prepared to accept that the Appellant attended a demonstration in Shiraz as claimed and considered that a couple of points raised by the Respondent lacked merit, for example the fact that the Appellant was unaware of the location of his detention. He did not consider an apparent discrepancy in his account of abuse between that which he gave to Dr Lord and that which he gave at interview to be significant. He considered Dr Lord's report to be potentially supportive.
7. The judge, however, did not consider it reasonably likely that the Appellant would be engaged by a firm with strong connections to the government in circumstances where he had been detained by the authorities. He had given an inconsistent account of what was in the cargo and whether it was guarded, and he did not consider it credible that he would have been able to take daily photographs of the cargo at will. He concluded that his claim that he stored the photographs and other incriminating material on his work computer for safety to lack credibility, especially as the firm in question was by that time under the control of Sepah. There was also inconsistent evidence in relation to his parents and whether they were alive.
8. Having considered all of the evidence he concluded that his injuries were not caused as claimed and he dismissed the appeal.

The Grounds of Application

9. Although the Appellant was represented at the hearing, he drafted the grounds of appeal himself. He said that the judge had misunderstood his evidence when he said that the Kavian Petrochemical Company was under the control of Sepah from 2009 because he had said in his interview that the company was Fater Kosaran Janoob. Taking employment in a private company was different from taking employment in a government company, and being employed as a technical civil expert in the organisation would not have made him appear to be a threat.
10. He made a number of comments about his incarceration and said that his evidence appeared to be inconsistent because he had a troubled memory of a very traumatic situation. He would be able to collect more evidence in relation to his parents and his university education if given more time.
11. Permission to appeal was granted by Designated Judge Taylor on 27th June 2013. He said that it was highly regrettable that the judge appeared not to have kept any record of the evidence given by the Appellant and not to have indicated in the determination whether he gave oral evidence or was cross-examined. The official Record of Proceedings was blank. For that reason alone the grounds were arguable.
12. On 22nd August 2013 the Respondent served a reply defending the determination.

Submissions

13. Ms Harrison, who was not the representative before the First-tier Tribunal, relied on some of the grounds as drafted by the Appellant although not ones seeking to adduce post-decision evidence.
14. She said that the judge had misunderstood the Appellant's evidence in relation to his work and had wrongly stated at paragraph 23 of the determination that Sepah took control of Kavian Petrochemical, whereas in fact the Appellant's evidence was that he was working as a contractor for that company and was employed by Fater Kosaran Janoob and it was Fater which was taken over by Sepah and not Kavian.
15. Although she accepted that she had not made any application to amplify her grounds, she submitted that the judge had erred in his treatment of the expert evidence and had not mentioned the fact that Dr Lord had said that the Appellant was suffering from PTSD and had been the subject of sexual abuse.
16. The judge had accepted that the Appellant had attended a demonstration in 2009 but had not considered whether, on that account, he would be at risk as someone who was perceived to be in opposition to the government.
17. Ms Petterson defended the determination and said that whilst the judge may not have been entirely accurate in his consideration of which company had been taken over by Sepah it was clear that he was aware that it was the Appellant's case that he was a subcontractor and there was therefore no misapprehension by him of the facts.

She submitted that the judge had dealt with the medical evidence properly, and observed that Dr Lord had recounted the Appellant as saying there had been attempted sexual abuse rather than actual abuse.

18. So far as the grant of permission was concerned, she said it was clear that oral evidence had been taken and indeed the judge made reference to it at paragraph 49 when he said that he had taken the oral evidence into account, and at paragraphs 60 and 62 when he referred to cross-examination.

Findings and Conclusions

19. There is no error of law in this determination.
20. With respect to the slip in paragraph 23 in relation to which company had been taken over by Sepah, the mistake is immaterial because it is clear that the judge was fully aware that it was the Appellant's case that he was subcontracted to that firm and not employed by them directly. He specifically refers to him being employed as a subcontractor at paragraph 61.
21. Neither is there any error in his consideration of the medical evidence. He accepted that the doctor found two scars on the Appellant's right arm to be diagnostic of incised wounds, but observed that they could not be dated and the doctor could not rule out accidental injury even though she found it less likely. The chip on the tooth could also have been the result of an accident. He properly considered the medical evidence in the context of the Appellant's evidence as a whole and was entitled to conclude that it did not establish that the injuries had been caused as claimed.
22. The fact that he did not refer to any sexual abuse is immaterial because there was none. On the Appellant's evidence, although the guard had attempted to rape him on one occasion, he had successfully resisted.
23. There is nothing in the point in relation to attendance at the demonstration. The judge made a clear finding that the Appellant was not arrested or detained as a consequence and therefore there would be no reason for the authorities to be aware of his attendance.
24. Finally, with respect to the Record of Proceedings, the fact that the judge's notes are not in the file does not show that he kept no record. This is a very experienced judge who has been sitting for many years. It is inconceivable that he would not have taken a note of the evidence. The file itself is split into two and it would be easy for the notes to have fallen out.

Decision

The decision stands. The Appellant's appeal is dismissed.

Signed

Date

Upper Tribunal Judge Taylor