



IAC-AH-SC-V2

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

Appeal Number: AA/08302/2014

THE IMMIGRATION ACTS

**Heard at Manchester
On 16th April 2015**

**Decision & Reasons Promulgated
On 10th July 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE D N HARRIS

Between

**MR IJAZ AFZAL CHOUDHARY
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Hashmi, Counsel

For the Respondent: Mr A McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Pakistan born on 27th April 1990. The Appellant arrived in the UK at London Heathrow on 17th September 2011 on a Tier 4 (General) Student visa valid until 7th November 2012 and subsequently extended until 29th November 2013. The Appellant returned to Pakistan on 22nd August 2013 for a two week period before returning on 6th September 2013. He claimed asylum on 14th January 2014.
2. The Appellant's application for asylum was based on a fear that if he returned to Pakistan he would face mistreatment due to the murder of his

father who was a prominent political figure in Pakistan. The Appellant's application was refused by Notice of Refusal dated 1st October 2014.

3. The Appellant appealed and the appeal came before Judge of the First-tier Tribunal Jacobs-Jones at Hatton Cross on 17th December 2014. In a determination promulgated on 19th January 2014 the Appellant's appeal was dismissed on both asylum and human rights grounds and the Appellant was found not to be in need of humanitarian protection.
4. On 4th February 2015 Grounds of Appeal were lodged to the Upper Tribunal. Those grounds contended that the judge had erred in failing to make any, or any proper, findings on issues material to the Appellant's core claim, had failed to take into account relevant evidence and had failed to assess the Appellant's claim with strict reference to the country information.
5. On 16th February 2015 First-tier Tribunal Judge Ford granted permission to appeal. Judge Ford noted that the Grounds of Appeal may show an arguable material error of law in that having:-
 - (a) found that the Appellant's father was a general councillor; and
 - (b) accepted the Appellant's account of his father being killed, and
 - (c) accepted that there was background evidence of political killing in Pakistan,

that the First-tier Tribunal Judge had gone on to find that the Appellant had exaggerated his father's importance and been inconsistent in his account of what had happened after the Appellant's father's death. Judge Ford considered the basis on which the First-tier Tribunal Judge had made those adverse credibility findings may be open to challenge.

6. On 2nd March 2015 the Secretary of State responded to the Grounds of Appeal under Rule 24. The Rule 24 response comments that in a comprehensive determination the judge considered all the evidence and after having analysed the evidence made well-reasoned findings of fact. The Secretary of State contends that Judge Ford in granting permission to appeal simply states that the basis which the judge made adverse findings may be open to challenge. The Secretary of State contends that there is no reason for reaching that conclusion because the grounds which the judge summarises at paragraph 3 of the grant of permission are no more than the mere disagreement with the judge's findings.
7. It is on that basis that the appeal comes before me to determine whether or not there is a material error of law in the decision of the First-tier Tribunal Judge. The Appellant is represented by his instructed Counsel Miss Hashmi and the Secretary of State appears by her Home Office Presenting Officer Mr McVeety.

Submissions/Discussions

8. Miss Hashmi relies on the Grounds of Appeal. She goes on to contend that the First-tier Tribunal Judge has not considered the issue of the possibility of internal relocation and has merely attached reference to this as an appendix to the decision. She submits that there has been a finding of fact that the Appellant's father was a general councillor and that he was killed for political reasons.

9. Mr McVeety quickly responds by stating that it is incumbent upon the Tribunal to look at the grant of permission and that it has never been accepted that the killing of the Appellant's father was for political reasons. He criticises the grant of permission. In particular the specific reference:

“Judge Jacobs went on to find that the Appellant had exaggerated his father's importance and been inconsistent in his account of what had happened after the Appellant's father's death. The basis upon which he made those adverse credibility findings may be open to challenge.”

Mr McVeety submits that it would be necessary for such credibility findings to be so perverse as to make the First-tier decision untenable and that that threshold is nowhere near approached. He points out that Judge Ford in granting permission has not said why the grounds are arguable and he submits that there is nothing wrong with what the judge said.

10. Mr McVeety goes further for he then sets out in some detail his critical response at paragraph 4 of the Grounds of Appeal i.e. that paragraph and subparagraph where it is submitted that the judge erred in making adverse findings. Mr McVeety addresses paragraphs 4(i) and (ii) together. These are the paragraphs relating to the Appellant's father's political career and position. He submits that the allegations made therein are selectively taken and refers me to paragraphs 20 and 21 of Judge Jacob-Jones' determination pointing out that the finding was that the Appellant's father was not so prominent as claimed, that finding was not challenged by the Appellant's representatives. He submits that the judge made an overall finding based on a reasoned analysis that the Appellant's father was not as political “as was claimed by the Appellant and that the allegation made by the Appellant's representatives in the Grounds of Appeal has no merit”.

11. As to the contention at 4(iii) that the judge had speculated as to the reasons of the father's death without considering the evidence in the round and without reference to country information Mr McVeety points out that that is not true and refers me to paragraphs 24 and 30 of the determination submitting that therein the judge had spelt out the evidence, that he had addressed the issue and that the ground put forward is completely misleading. He turns to the submission at paragraph 4(iv) relating to the attack on the Appellant's father. He points out that the final sentence therein in the grounds which states: “Whilst the judge considered his account of who attacked the Appellant to be inconsistent the judge failed to consider that the Appellant clarified in oral

evidence before the Tribunal that these men had organised the attack” is not what the judge had said. He submits that the judge has not even made a finding and refers me to the determination and submits that there is no issue of consistency therefore no error and points out that the judge did not hold these events against the Appellant when reaching his decision.

12. Turning to paragraph 4(v) Mr McVeety asked me to read the determination in particular paragraphs 22 and 23 pointing out that it says therein that the Appellant’s father was involved in politics and it is the Appellant himself who said this. Further, in response to paragraph 4(vii) Mr McVeety points out that the judge has referred to the political violence and that he considers the challenge to be insincere. He points out that documents had been provided saying that the police had taken witness statements after the murder and that evidence from the Appellant’s representatives show the police had been investigating it.
13. So far as Ground 4(viii) is concerned and the contention that the Appellant was found by the Secretary of State for the Home Department to be eternally consistent in his claims to the events of 2nd September 2014 he points out that that is of little relevance and it does not raise any new inconsistency argument.
14. In response Miss Hashmi notes the concerns about the grant of permission and reminds me that a councillor is a Member of Parliament – something which Mr McVeety accepts on behalf of the Secretary of State. She acknowledges that the grounds are selective but having found the evidence to be politically motivated she contends that the judge has not addressed the issues in particular that of internal relocation. She points out that there is corruption within the police service in Pakistan and the fact that they are investigating the matter really is of little assistance.
15. In response Mr McVeety states that the case law supports the claim of sufficiency of protection and whilst he acknowledges that relocation has not been considered by the judge, that is quite simply because the judge has not found the Appellant to be credible. He submits that it is only appropriate to go on to consider relocation if there is a finding the Appellant is at risk in his own area and such a finding has not been made. He asked me to dismiss the appeal.

The Law

16. Areas of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on fact or evaluation or to give legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
17. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor

is it an error of law for an Immigration Judge to fail to deal with every factual issue of argument. Disagreement with an Immigration Judge's factual conclusion, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence of events arising after his decision or for him to have taken no account of evidence which was not before him. Rationality is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration Judge concludes that the story is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

Findings

18. This is a very well-constructed determination. The judge has given at paragraph 2 full details of the application for asylum and at paragraphs 3 to 5 considered the reasons for refusal and at paragraph 6 the Grounds for Appeal. Having heard the evidence the judge has made detailed findings set out at paragraphs 18 to 35. I endorse the views expressed in response to the Grounds of Appeal by Mr McVeety. The judge has given full and comprehensive reasons at paragraphs 19 to 23 as to why he did not find the Appellant to be a prominent politician in Pakistan. Those were findings that he was not only entitled to make but ones which he made after a full and detailed assessment of the evidence. When looked at in the round the submissions made in the Grounds of Appeal are nothing more than disagreement and argument. It is perfectly reasonable for an Appellant's representative to make such submissions providing they are sustainable. In this case when cross-referenced back and looked at in context to the manner in which this appeal was conducted and the findings made by the First-tier Tribunal Judge his analysis and reasoning is clear and thorough and he made findings of fact which he was perfectly entitled to based on the evidence that was before him. Such conclusions consequently affect the credibility of the Appellant's claim. A proper approach to credibility requires an assessment to the evidence and of the general claim. In asylum claims, relevant factors are firstly the internal consistency of the claim; secondly the inherent plausibility of the claim and thirdly the consistency of the claim with external factors of the sort typically found in country guidance. I acknowledge that it is theoretically correct that a Claimant need do no more than state his claim but that claim still needs to be examined for consistency and inherent plausibility. This is an approach that has, I am satisfied, been fully and properly adopted by the First-tier Tribunal Judge in this matter.
19. The decision was one that was proper and open for the judge to make. The judge has acknowledged that the Appellant's father was killed but it has not been shown to the First-tier Tribunal's satisfaction that he was

killed by political opponents and the judge has set out his reasons for this in detail at paragraph 29 and the judge has made findings of fact at paragraph 31 which he was perfection entitled to that the Appellant did not tell the truth as to why he left Pakistan on 6th September 2013.

20. As to the issue of relocation, whilst I accept that the First-tier Tribunal Judge has not addressed this issue that in itself does not constitute a material error of law because in this instant case the judge had made adverse findings of fact and credibility of the Appellant's testimony. Whilst it might have been good practice to have put an additional sentence in it was not incumbent upon the judge to do so and his failure to do so bearing in mind his previous solid findings of fact and credibility means that the failure to address this issue does not in any way disclose a material error of law.
21. For all the above reasons this is a sound decision which discloses no material error of law and the appeal is dismissed and the decision of the First-tier Tribunal is maintained.

Notice of Decision

The decision of the First-tier Tribunal discloses no material error of law and the appeal is dismissed.

No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge D N Harris

TO THE RESPONDENT FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge D N Harris