



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: AA/07110/2015

THE IMMIGRATION ACTS

Heard at Manchester

On 28 September 2017

**Decision &
Promulgated**

On 28 September 2017

Reasons

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

GS

ANONYMITY DIRECTION MADE

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Holt, Counsel

For the respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

1. The appellant has appealed, with permission granted by me, against a decision of First-tier Tribunal Judge D Birrell dated 3 November 2016, in which she dismissed his appeal against a decision refusing to grant him asylum or humanitarian protection.
2. The appellant, a citizen of Pakistan, claims that he was targeted by the Taliban for reasons relating to his social work, and the police did not provide him with adequate protection. The First-tier Tribunal did not regard much of the appellant's account to be credible and dismissed his appeal on this basis.
3. At the hearing before me Mr Holt relied upon and amplified his grounds of appeal and Mr McVeety relied upon and amplified the SSHD's rule 24 notice. After hearing from both representatives, I reserved my decision, which I now provide with reasons.
4. The decision of the First-tier Tribunal is comprehensive and detailed (running to 18 pages). The First-tier Tribunal has:
 - (a) directed itself to the correct lower standard of proof at [57].
 - (b) provided a full outline of the appellant's account leading to his application for asylum at [12a)-dd)].
 - (c) accurately recorded the competing submissions [13-37] and took these into account when making findings.
 - (d) properly directed itself to the correct approach to documentary evidence at [38] and considered the documents relied upon thoroughly - see [40], [42] and [46-55].
 - (e) considered the evidence both individually and as a whole, as noted at [39] and set out in detail at [44-57].
 - (f) paid proper regard to the country background evidence demonstrating the plausibility of aspects of the appellant's account - see [41], [45], [46].
5. The grounds of appeal focus upon three matters the First-tier Tribunal considered to reflect adversely upon the appellant's credibility from [55] onwards. I now turn to consider each ground of appeal relied upon in turn.

Ground 1 - delay

6. Mr Holt submitted that the First-tier Tribunal overlooked discrete threats to the appellant in 2015, which led him to believe he was at increased risk. I am satisfied that the finding at [56(b)] that the appellant's failure to claim asylum when he came to the UK in November / December 2014 is a factor undermining his general credibility, was open to the First-tier Tribunal for the following reasons.

(i) The First-tier Tribunal was well-aware of the relevant chronology of events having set them out in detail at [12] - see in particular [12x] and y)]. In addition, the First-tier Tribunal explicitly addressed the claimed attack on the appellant's house at [54]. When decision is read as a whole, I am satisfied that the First-tier Tribunal did not overlook any material evidence when making the finding at [56a)]. The First-tier Tribunal was aware of the evidence of the events in Pakistan in 2015 after the appellant's return from the UK, including the level of fear said to be experienced, which he claims triggered him to apply for asylum.

(ii) The First-tier Tribunal was entitled to regard the situation for the appellant as dire in Pakistan prior to November 2014 for the reasons provided: the appellant was the victim of an armed attack in a car in August 2014 and was '100%' sure the attack was aimed at him and carried out by the Taliban (see AIR at Q 229-230); the police sought a bribe to investigate the matter; his wife was removed from their home by her family for her own safety in September 2014.

(iii) The appellant's evidence that he felt 'no need' (see AIR at Q271) to seek protection in light of these events is difficult to understand.

(iv) There was further delay as noted by the First-tier Tribunal at [56(b)]. Mr Holt asked me to note that this paragraph does not refer to or make any clear finding on the further threats in 2015. He asked me to note that although the FIR relating to these events is addressed at [54] and [56], there was no clear finding made regarding the 2015 attack on the house. This fails to take into account the finding at [57] in which the First-tier Tribunal makes it clear that this aspect of the account is not accepted for reasons already provided.

7. In the circumstances, the First-tier Tribunal was entitled to draw adverse inferences from the delay in claiming asylum for the reasons provided. This was of course only one matter that the First-tier Tribunal took into account in the round with all the relevant evidence.

Ground 2 - plausibility

8. Mr Holt submitted that the First-tier Tribunal made a very specific finding that the Taliban would not be discouraged in the particular circumstances claimed and absent any background evidence to support it, this constitutes an error of law.
9. The First-tier Tribunal was entitled to be concerned at the evidence that four members of the Taliban armed with guns and a Kalashnikov, who had previously targeted the appellant, would flee in the circumstances described by the appellant - see [56(c)]. This was a concern entirely open to the First-tier Tribunal on all the evidence available. The background evidence supports the First-tier

Tribunal's assessment that the Taliban are well organised and well known for effective intimidation. The First-tier Tribunal has not taken judicial notice of any matter. Rather the First-tier Tribunal has outlined a concern that the claimed reaction of the Taliban did not appear credible or plausible in all the circumstances, particularly in relation to what is not disputed about the Taliban i.e. it is a ruthless organisation that has carried out numerous assassinations and bombings.

Ground 3 - requirement of corroboration

10. Mr Holt asked me to note that the FIRs were found to have been genuinely issued at [54] and invited me to find that the observation that there was nothing from the police to suggest a further observation constitutes a requirement of corroboration.
11. The submission that the First-tier Tribunal erred in law in requiring corroboration at [54] is not well-founded. In my judgment, the First-tier Tribunal has accurately commented that there was no further evidence from the police. That is an accurate summary of the evidence. There is nothing to indicate that the First-tier Tribunal drew adverse inferences from the absence of such evidence.

Conclusion

12. When the decision is read as a whole I am satisfied that none of the grounds of appeal are made out and the decision does not contain any error of law.

Decision

24. The decision of the First-tier Tribunal did not involve the making of a material error of law and I do not set it aside.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
28 September 2017