



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

Appeal Number: PA/00417/2017

THE IMMIGRATION ACTS

**Heard at Manchester
On 12 June 2017**

**Decision &
Promulgated
On 13 June 2017**

Reasons

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**MA
ANONYMITY DIRECTION MADE**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr M Schwenk, Counsel

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

DECISION

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. I have anonymised the appellant's name because this decision refers to his asylum claim.

Summary of asylum claim

2. The appellant is a citizen of Pakistan. He claims that he is gay and faces a real risk of persecution in Pakistan for this reason.

Procedural history

3. In a decision dated 9 February 2017 First-tier Tribunal Judge Ian Howard did not find the appellant to have provided a credible account of events in Pakistan. The First-tier Tribunal rejected the appellant's claim to be gay and dismissed his appeal.
4. First-tier Tribunal Judge Bird granted permission to appeal observing that it is arguable that the First-tier Tribunal failed to give adequate reasons for the findings he made on the core aspects of the appellant's claim.
5. The SSHD submitted a rule 24 notice in which she submitted that the findings of fact were open to the First-tier Tribunal.

Hearing

6. After hearing from Mr Schwenk, Mr McVeety conceded that the factual finding at [28] contains an error of law such that the decision needs to be remade completely, with entirely fresh findings of fact.
7. I had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I indicated at the hearing that I agreed with both representatives that this is an appropriate case to remit to the First-tier Tribunal.

Error of law discussion

8. I can state my reasons briefly given the respondent's concession.
9. The First-tier Tribunal gave five specific reasons for finding the appellant not to be credible [26-30]. At [28] the First-tier Tribunal said this in relation to the third reason:

"The appellant implies that his uncle was bisexual, yet it is only when the uncle learns of Rashid that he attempts to seduce the appellant. Given he is said to have known about the appellant's sexuality from the outset his attractions would have manifested themselves earlier."

10. This misunderstands and misconstrues the appellant's claim. His clear evidence within the asylum interview and his statement is that

his uncle attempted to rape him. There was no attempt at seduction. As acknowledged by Mr McVeety, the claimed act was an attempted rape, and the issue of the uncle's attentions not having manifested themselves earlier does not arise in these circumstances. This was an irrelevant factor to take into account and the finding at [28] is irrational.

11. Mr McVeety accepted that this finding cannot be separated from the other factual findings and it is therefore unnecessary for me to address the other grounds of appeal. Both representatives agree that the decision contains a material error of law and the decision must be remade de novo.

Decision

12. The First-tier Tribunal contains an error of law and I do set it aside.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
12 June 2017