Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/01368/2017

THE IMMIGRATION ACTS

Heard at Royal Courts of Justice	**Decision & Reasons Promulgated**
On 19 June 2017	**On 22 June 2017**

Before

UPPER TRIBUNAL JUDGE MCGEACHY

Between

MUHAMMAD KASHIF
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss K Wass, of Counsel instructed by Messrs Sunrise Solicitors
For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission against a decision of Judge of the First-tier Tribunal Aziz who in a determination promulgated on 27 March 2017 dismissed the appellant's appeal against a decision of the Secretary

of State to refuse to grant asylum. The appeal was refused on both asylum and human rights grounds.

2. The appellant is a citizen of Pakistan born on 15 January 1982 who entered Britain as a student on 2 April 2011 with a visa valid until 30 September 2014. In January 2014 his leave to remain was curtailed because of non-compliance with his visa conditions. He overstayed and in December 2016 was encountered working illegally at a restaurant. He was served with removal papers. He claimed asylum on 10 December 2016. That application was refused on 31 January 2017 and it is the appeal against that decision which is now before me.

3. The appellant claimed that his brother had set light to a Quran in a mosque in Hyderabad in January 2011. The appellant's brother had then been arrested and taken into custody and pleading guilty. In January 2011 the incident had been broadcast in the media and threats to set their house alight had been made against the appellant's family. The appellant's father had been attacked by clerics.

4. The appellant had moved to Islamabad on 23 January 2011 for his own safety, remaining there until April 2011. He stated that while he was there media coverage of his brother's actions had resulted in people in Islamabad recognising him and he had been attacked and beaten on one occasion by members of the public. Although he had tried to report the matter to the police they had threatened to arrest him and his family. He had then left Pakistan. He feared various religious groups who were aware of his identity and would be able to track him down if he returned.

5. The Secretary of State did not consider that the appellant's claim was credible. The court documents which it was claimed related to his brother had been produced were produced, but it was noted that the name on the court documents, "Faisal Rajput", did not match the appellant's brother's name which was "Faisal Majeed".

6. The Secretary of State also considered that the appellant's claim was not plausible, stating that if people were attacking his home with impunity as the police were refusing to help his family, the appellant and his family would not have been able to remain in the house, without difficulty. It was moreover not credible that having moved to Islamabad the appellant would be beaten by a group of people who would recognise him from coverage of the charges against his brother.

7. Although the appellant had claimed that his brother had been killed in prison, the death registration certificate which the appellant provided said that his brother's death was "natural" and that the cause of his death was normal. No weight was placed by the Secretary of State on an untranslated newspaper article. The Secretary of State relied on Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.

8. The judge heard evidence from the appellant and considered the documents submitted. He set in detail out the evidence and his submissions in the determination. Having referred to relevant law in paragraph 71 of the determination onwards, the judge set out his findings of fact and conclusions.

9. He did not find that the appellant was credible. He placed weight, inter alia, on the delay in claiming asylum and said he considered that the appellant's claim was generally implausible stating that for the appellant's brother to burn the Quran openly would have been "reckless in the extreme" and that if the local people had turned against the appellant's family it would be unlikely that they would have been able to escape as they had.

10. In paragraph 78 he emphasised that what he found most implausible was the appellant's explanation as to why internal relocation was not a viable option, given the many years that had passed since his brother's alleged actions.

11. In paragraph 79 he stated:-

> "79. The appellant stated that internal relocation was not a viable option as of the date of hearing because;
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> (a) an agent or agents of persecution which he kept referring to as 'religious organisations' kept details and photographs of every child who was born in Pakistan,
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> (b) the religious organisations were still offended by what his brother did and even though his brother had been killed in prison in 2014, the religious organisations continued to be so incensed by the actions of his brother that they wanted to kill the appellant as well (even though he played no part in the Quran burning incident) and
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> (c) as these religious organisations kept a database of every child born in Pakistan, they would be able to distribute information and details about him throughout Pakistan, thus ruling out internal relocation as a viable option."

12. He emphasised that the appellant kept referring to "religious organisations" without being able to provide any sort of name until he was asked several times in re-examination. The judge said that this concerned him, and moreover he did not find it credible that agents of persecution would be interested in the appellant, given that he had not been involved in the Quran burning incident and that the alleged perpetrator, his brother, had been murdered in prison.

13. He also found as lacking in credibility the assertion that "religious organisations" held records (separate from the state) of every child born in Pakistan and they could use their records to be able to locate him throughout Pakistan. He pointed out that, when cross-examined the appellant had been asked how those organisations would be able to recognise the appellant from a photograph of him as a baby he had claimed that religious organisations would be taking photographs of every child as they grew up, thus updating their records. He stated that that was nothing less than pure fiction.

14. He noted that it was only after repeated questioning by his representative that the appellant had mentioned two organisations which operated from within his own village. He stated that the difficulty the appellant had in naming the organisations was because he had difficulty in trying to make up an untruth to cover-up for earlier untruths which he had told the Tribunal.

15. Moreover, in paragraphs 84, 85 and 86 he wrote:-

> "84. *Lack of digital footprint*: If the appellant's account and that of his friend is to be accepted, then there was nationwide media coverage of the Quran burning incident in 2011 by 24-hour TV news channels and the printed press. The appellant himself states at paragraph 10 of his statement that news of his brother's actions 'spread like wildfire' and the incident was given high coverage due to its extreme and controversial nature. He added in his oral testimony that the very reason why internal relocation from their village to Islamabad failed was because people recognised him and his family from the intense media coverage that followed his brother's actions. The appellant's friend, Mr Zaib, stated that the country's two main 24-hour news channels covered the incident for several days and that he even recalls seeing the appellant's photograph in the press.
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> 85. During closing submissions, I indicated to the appellant's counsel, Mr Lemer, that if I were to accept the appellant's account and the intense media coverage that his brother's actions generated, then this was the type of case that ought to be relatively easy to objectively verify due to the digital footprint that it would leave behind.
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> 86. Mr Lemer acknowledged the point that I was making. He indicated that the absence of such evidence was not through lack of effort by those instructing him. They had tried to obtain media reports of the appellant's brother's Quran burning incident from 2011 but had been unable to locate anything. He also suggested that given that the incident took place in 2011, the passage of time may be an explanation for the absence of a digital footprint in 2017 ...".

16. The judge stated that he did not accept that last observation and stated that he found there was a very good explanation for the lack of a digital footprint and the fact that the appellant's representative had not been able to find any media/press reports of the incident which was that the appellant had manufactured the entire account.

17. He referred to the death certificate produced but stated that the death certificate referred to the appellant's brother's death being from natural causes which undermine the assertion that he had been murdered in prison. He did not accept the explanation that the authorities would not want it to be known that his brother had been murdered in prison and that was why the death certificate falsely stated that his brother had died from natural causes. He stated that "Considered in isolation, this is not an implausible explanation. However, this is not the only anomaly in the document".

18. He stated that the appellant's father whom the appellant had said that he had lost contact with since 2011 had been recorded as being the individual who registered the death and provided information regarding the last burial rites. The appellant could not explain why the document contains such information as according to his account his father's whereabouts had been unknown since 2011. He stated he found the appellant's attempts to distance himself from a document which he had adduced and sought to rely upon to be unconvincing.

19. He did refer to other documents which had been produced and stated that in light of the numerous adverse findings which he had made and applying the principles in **Tanveer Ahmed IAT [2002] UKIAT 00439** little weight should be attached to those documents.

20. He stated that he believed that the appellant had fabricated the entire asylum claim to frustrate his removal after he had been caught working illegally and therefore dismissed the appeal.

21. The grounds of appeal largely misrepresent what the judge had said, for example suggesting that he had said that the religious organisations who would pursue the appellant would not recognise him from a picture taken when he was a baby, when in fact what the judge had said was that he did not accept that they would have updated their records. It was argued that that the judge had been speculative in his views about the extremist organisations and stated that "clerics/religious organisations" would have a very strong network throughout Pakistan. They suggested that the judge was wrong to place weight on the fact that the appellant lacked knowledge of the extremist groups he feared as he was not a country expert. It was argued that the judge had not given reasons for his conclusions.

22. The grounds also suggested that the tone of the determination was "eccentric" and the judge had not made a finding as to whether or not the Quran burning incident had occurred, and nor had he made a finding on whether or not religious extremist groups had networks spread throughout Pakistan. It was claimed that the judge should also have considered that the religious organisations would have a photograph of him acquired from the media and would therefore be able to recognise him if he were to return.

23. It was stated that the documents from Pakistan had been "legalised" by the Foreign Office in Pakistan which confirmed the documents to be genuine and authentic, but the judge had failed to make findings in that regard.

24. It was stated that the judge had not disputed the appellant's brother had died in prison or that he was prosecuted for the offence of burning the Quran were clearly relevant factors. It was stated the judge was not entitled to make the findings which he had.

25. The grounds went on to state that the judge, by stating that he was concerned about the lack of evidence of digital media in paragraphs 84 onwards, had not taken into account the evidence that was before him and that moreover the judge had not considered the particular circumstances of the appellant.

26. It was suggested that the judge's findings were at odds with the documentary evidence produced.

27. In granting permission to appeal Judge of the First-tier Tribunal Keane stated that:-

> "The very lengthy narrative style grounds on which the application for permission was made amounted to a disagreement with the findings of the judge. The judge set out reasons for his finding that the appellant had not given a credible account that he had come to the adverse attention of clerics and religious organisations in Pakistan. However, at paragraph 85 of his decision the judge appeared to request corroborative evidence of an incident which involved the burning of the Quran in 2011. The judge arguably had regard to an irrelevant consideration."

Judge Keane considered that that was an arguable error of law.

28. At the hearing before me Miss Wass referred to what was written at paragraph 85 of the determination which I have quoted above. She stated that the judge was clearly requiring corroborative evidence which was an error of law. Moreover, she stated that the judge had failed to consider court documentation and to have considered objective evidence of what happened to those who committed blasphemy – she referred to pages 15

to 17 of the bundle which showed details of a fatwa issued against a son after blasphemy by his father. That showed that there was objective evidence of the treatment of family members.

29. She argued that the judge had erred in failing to make a finding on the incident of the burning of the Quran, had failed to consider the documentary evidence of the allegations made, and erred by merely stating that he considered the documents in the context of the guidance in the determination in **Tanveer Ahmed**. The documentary evidence had been legalised by the Pakistani Foreign Office and therefore proper consideration should have been given to them.

30. She argued that there was a lack of reference of consideration of the documentary evidence and the objective evidence which had been put forward and the judge had given weight to irrelevant matters, for example the attack on the appellant's family's house. She argued that the judge was wrong to consider that internal relocation would be open to the appellant and to place weight on the fact that there was a lack of a digital footprint regarding what had happened in 2011.

31. In reply Mr Whitwell stated that the grant of permission was somewhat Delphic, but it appeared that Judge Keane had stated that, with the exception of the issue regarding paragraphs 84 and 85 of the determination, the grounds of appeal were merely a disagreement with conclusions which were fully open to the judge to make.

32. He referred to the fact that the appellant had only claimed asylum when he had been picked up after being found to work illegally and pointed out the fact that Mr Lemer, in paragraph 86, accepted the judge's point about the lack of supporting evidence. He referred to the documentary evidence and the incident in the bundle which related to a high profile human rights activist whose son had been fearful of what might happen to him in Pakistan. He stated that was very different from this appellant. He asked me to find that the judge was entitled to find that the appellant had not made out his claim and reached conclusions which were fully open to him.

Discussion

33. I consider that there is no material error of law in the determination of the Immigration Judge. The judge properly considered all the evidence before him and his conclusions were, I consider, fully open to him. He was entitled to find that not only was the appellant's claim implausible, but that it was simply not credible. He was not saying in paragraphs 84 and 85 that he required corroboration, he was merely making the clearly obvious point that if there had been such a media storm caused by such a clear act of sacrilege as burning the Quran, there should surely be some evidence of that. This indeed was acknowledged by the appellant's representatives who had endeavoured to find evidence in support of the appellant's claim but had been unsuccessful.

34. The judge moreover was entitled to find that the appellant's claim that he would be recognised throughout Pakistan was not credible. There was simply no evidence whatsoever to back-up his assertion that unnamed religious organisations would be able to trace him throughout Pakistan. It of course must be remembered that it was not the appellant himself who claimed that he had committed an act of blasphemy, but his brother, and he asserted that his brother had been killed.

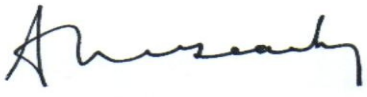
35. Moreover the judge did properly consider all the documentary evidence before him. He was entitled to view the evidence with considerable scepticism notwithstanding that the Pakistani Embassy had "legalised" the documents. Given that the judge considered those in context he was quite correct in his application of the principles in **Tanveer Ahmed**. His conclusions regarding the documents were fully open to him, particularly given the fact that the death certificate, for example, did not reflect the appellant's assertions of what had happened about the death of his brother, that he had said that his father had disappeared in 2011 but that his father had registered the death, and that the fact that he received the death certificate indicated that he had been in touch with his family, whereas the appellant had said that he had not. I consider that the judge was entitled moreover to consider that the background evidence submitted did not assist the appellant: there was nothing therein to indicate that "religious groups" would be able to trace people from photographic records which they had throughout Pakistan, or indeed be able to trace someone from a background such as the appellant who had a very low profile indeed. He was entitled to find that the appellant was not credible and to place weight on the delay in claiming asylum.

36. The judge was, I consider, fully entitled to find that the appellant's claim was not credible, he gave clear reasons for that and therefore was fully entitled to dismiss the appeal and made no material error of law in so doing.

Notice of Decision

37. This appeal is dismissed.

38. No anonymity direction is made.

Signed 

Date: 22 June 2017

Upper Tribunal Judge McGeachy