



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

Appeal Number: PA/02888/2015

THE IMMIGRATION ACTS

**Heard at Manchester
On 12th December 2017**

**Decision & Reasons Promulgated
On 23rd January 2018**

Before

UPPER TRIBUNAL JUDGE KING TD

Between

[U K]

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A B Faryl of Counsel, instructed by Buckingham Legal Associates

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

DECISION AND REASONS

1. The appellant is a citizen of Pakistan who claims to have entered the United Kingdom in June 2012 upon a student visa. When his visa was subsequently curtailed he claimed asylum on 15th July 2015. That claim was refused by the respondent in a decision of 12th November 2015.
2. The appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Handley on 1st March 2017. In a determination dated 30th March 2017 the appeal was dismissed in all respects.

3. Challenge is made to the decision on a number of grounds. Leave was granted to the Upper Tribunal.
4. Thus it is that the matter comes before me to determine the issues upon which leave was granted.
5. It is the claim of the appellant that he is homosexual and on that account he cannot safely return to Pakistan.
6. The starting point for the events in Pakistan is that when he was 14 he formed a sexual relationship with [AR]. There came a time in 2011 when he and [AR] were discovered by his parents involved in sexual activities. The police were contacted and the appellant was taken into custody and ill-treated before being released. Fearing for his own family members the appellant came to the United Kingdom as a student.
7. It is the case of the appellant that [AR]'s family were influential. The obvious question, which seemingly was never answered, was why such a family would have chosen to involve the police in the matter which would have got their son in trouble as well as the appellant, rather the case proceeded from a lack of evidence and the inconsistent accounts as given by the appellant.
8. In the screening interview it is said that the appellant gave an incorrect name for his friend [AR], describing him as [AA]. It is said that the Judge placed undue weight upon that matter, given the explanation that was offered by the appellant that the interpreter had misunderstood what he had said. That explanation was noted by the Judge at paragraph 40 of the determination but it was noted that the appellant when questioned in July 2015 he had excellent English. Indeed, the screening interview had been confirmed as a true and accurate account.
9. That matter, however, does not stand on its own and the Judge found a number of matters which gave rise to concern, particularly his failure to claim asylum upon arrival in the United Kingdom. The Judge did not find it credible that the appellant would have been unaware of the process of such a claim, being with other students.
10. In his screening interview he indicated that he had had one relationship in the United Kingdom with a [SM] although that person was not more clearly identified nor did he attend the hearing. In the asylum interview he said that he had been in relationships but was not in one currently. Further in interview he said he had met [SM] some six months previously to the interview.
11. Thereafter the appellant also indicated that shortly after coming to the United Kingdom he had had a relationship with [GS], who was a Sikh that he met in Leeds.

12. Further detail was provided at the hearing as recorded in paragraph 32 of the determination that he had met [SM] in March or April 2015 and met his current partner, [MS], in February 2016. That witness, together with one [ST], attended the hearing and gave evidence.
13. The Judge noted that the appellant had been inconsistent regarding the relationships which he claimed that he had had in the United Kingdom, inconsistencies which the Judge considered to be significant in the context of the case.
14. Complaint is made, and indeed is one of the grounds for which permission was granted, that the Judge in the determination makes no findings as to the credibility of either of the two witnesses that were called. In the normal course of events that would clearly be a significant omission but they had essentially adopted their witness statements, neither of which really says anything about having a sexual relationship with the appellant, which in the circumstances is somewhat curious. The witness statement of [MS] is to be found at pages 11 to 13 of the more recent bundle that was served. He is British and a Sikh and lives in Manchester. He states that he is currently in a relationship with the appellant, having met in February 2016. Although there is an implication in the wording of the statement that that is a sexual relationship it is not specifically stated as such. The witness statement of [ST] was at pages 15 to 16 of the bundle. He has known the appellant since April 2015 when he met him in Manchester. His statement is silent on whether or not there is any sexual relationship at all. As to [MS], the appellant does not live with him. He lives in Manchester on his own and [MS], it would seem, pays his rent and his food.
15. It is perhaps somewhat odd that the witnesses, who have come to support the appellant in his claim that he was a homosexual, give very little detail as to their relationships with him, particularly in that capacity. Taken at its highest, their evidence does not particularly assist the appellant.
16. Two further matters of evidence were raised in the course of the hearing, the first being notes of an Immigration Officer arising from when the appellant was detained on 4th July 2015, working in a shop, where he claimed that he was visiting his cousin. The notes of the interview indicate that the appellant said he was a single male with no romantic partner and no close ties otherwise and no medical issues. The appellant stated that he had a girlfriend, then modified that to his friend, who is a girl, [R], but she does not live in the United Kingdom. The appellant was worried that the immigration authorities would contact his father as he had told him that he had been issued with another student visa.
17. Complaint is made that this was evidence produced at a late stage in the proceedings and was not a verbatim record of the conversation. Be that as it may, no application for an adjournment was made as to that material

and it is significant, as indeed Mr McVeety points out, that there has been no overt challenge to the correctness of what was recorded. If it is correct, the answers would tend to indicate that the appellant was not homosexual nor in a relationship either with [ST] or [MS].

18. Another curious document which has been presented in the course of the hearing is described as “an order sheet”. This is a document which the respondent accepts as a genuine document. Potentially it had significance in favour of the appellant’s case as it was said to support the fact that a false kidnapping claim was made against the appellant’s family by the family of [AR]. The FIR to which the order relates is not in the possession of either party. A copy of the order, together with the verification of that order, is within the papers. It would seem, however, an allegation of abduction of a young woman, whose proceedings are being withdrawn upon the request of the young woman concerned. Whether that young woman is the woman named by the appellant to the immigration authorities is not entirely clear but it is certainly not an allegation of homosexuality and is not supportive of the appellant’s case in that regard. There is a marked lack of detail given, both by the appellant and anyone else acting for him, as to the nature of the allegation that was the subject of the FIR. The Judge had considered all the evidence. It was noted that the appellant had indicated at one stage that he lived openly as a homosexual in the United Kingdom and at another that he did not because he wanted to conceal his identity. That was an inconsistency casting further doubts as to the reliability of the appellant’s claim of events.
19. In terms of the events in Pakistan and the claimed torture the Judge was careful to consider the evidence of Dr Jabbar.
20. Looking at the matter overall, the Judge’s conclusion was that the appellant had not established that he was a homosexual as he claimed nor that there was any substance to the claim which he advanced.
21. Thus as to the issue of the name of the partner being incorrectly recorded in the screening interview, it seems to me that the Judge has borne in mind the explanation that had been offered and was entitled in all the circumstances to reject it. As to the CID notes not being a verbatim record, it is significant, as I have indicated, that no specific challenge to their content and the accuracy thereof has been made but merely as to the format of those notes. The lack of findings as to the two witnesses would, as I have said, have been a potentially serious matter had they given any material evidence that would have advanced the case of the appellant but I do not find that they did.
22. Looking at the matter overall, I find that the Judge, properly considering the case as a whole, and came to a sustainable conclusion.
23. In the circumstances therefore the appellant’s appeal to the Upper Tribunal is dismissed. The findings of the First-tier Tribunal Judge shall be

upheld, namely that the claim for asylum is dismissed; that in relation to humanitarian protection is dismissed as is the appeal in respect of Articles 2, 3 and 8 of the ECH Convention.

Notice of Decision

The appeal is dismissed in respect of all aspects

No anonymity direction is made.

Signed

A handwritten signature in black ink, appearing to read 'P. Q. King', is written in a cursive style.

Date 19 January 2018

Upper Tribunal Judge King TD