



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/09971/2018

THE IMMIGRATION ACTS

Heard at Field House
On 1 April 2019

Decision & Reasons Promulgated
On 29 April 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

ASAD ULLAH
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Karim of Counsel

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant a citizen of Pakistan, born on 11 April 1974 appealed against the respondent's decision refusing to grant him asylum and humanitarian protection in the United Kingdom. First-tier Tribunal Judge VA Cox in a decision promulgated on 20 December 2018, dismissed the appellant's appeal.
2. Permission to appeal was at first refused by First-tier Tribunal Judge Saffer but subsequently granted by Deputy Upper Tribunal Judge Doyle on 28 February 2019 stating that it is arguable that the Judge gave inadequate consideration to the

appellant's claimed fear due to his ethnicity and religion and also the Judge's consideration of Article 8 was superficial.

3. The First-tier Tribunal Judge dismissed the appellant's appeal because he did not find the appellant credible or his claim credible that he is at risk on his return to Pakistan because due to his role in the police force. The appellant's role as an officer with the ATF was not issue. The Judge did not find credible the appellant's claim that he was attacked as claimed in Pakistan or that he has any reason to fear anyone on his return. The judge also concluded that the appellant lived in Pakistan all his life travelling internationally and always returning to Pakistan, and he could live there again safely just as his family lives there.
4. The grounds of appeal state that the appellant's claim is not limited to the fact that he was a former police officer but also that he is a Hazara of Shia ethnicity. The grounds complained that the Judge has not considered the other factors and has not assessed the claim on the holistic basis. The judge was required to consider the cumulative risk on return having regard to all the factors in having regard to the subjective and objective evidence. The fact that the appellant is identifiable as a Hazara he would be at risk from identified books which pose a risk to him.
5. The second ground is that the judge attached to Little weight to the report of the expert and found it not to be balanced and objective. The Judge has failed to consider the report as a whole as the contentions of the expert in the previous cases in which expert evidence was provided by this expert.
6. The third ground rejects the experts evidence relating to attacks on police officers. This was a significant aspect of the appellant's case because he states he too was attacked you to his ranking the ATF, his Hazara ethnicity and Shia religion. The fourth ground of appeal is states that the judge erred by stating that some injury should have been left on the appellant the attack which is pure speculation and has not given adequate reasons rejecting the attack.
7. The fourth ground is that the judge refers to the witness evidence of Mr Baksh I next inadequate if any credibility findings. This witness's circumstances were very similar to the appellant because he is a Hazara who worked with the appellant and was recognised as a refugee in Sweden. The Judge factored into account the corroboration of this witness officers in terms of risk on return. The fact that documents from the witness were not provided is not a sufficient reason to reject his evidence.
8. The sixth and last ground of appeal is that the appellant's assessment of Article 8 is inadequate and downplays the delay of the respondent. Moreover, having accepted subjective and objective matters the judge has not provided sufficient reasons for why paragraph 276 ADE (1) (Vi) was not met. The Judge simply concludes that there will not be very significant obstacles because the appellant will be reunited with his family Pakistan without considering the conditions on return for a Hazara Shia and a former ATF officer.

Error of law discussion

9. I have considered the decision of the First-tier Tribunal Judge with anxious scrutiny against the six grounds of appeal. The appellant's profile and role as an ATF officer was not disputed and accepted by the Judge. The judge noted at paragraph 8 of the appellant's witness his statement he stated that he was a part of ATF forces who apprehended some Taliban militants and was also a member of a team in large number of operations. The evidence before the judge was that the appellant's wife and child live in Pakistan at the same house as the rest of his family and continue to live there in safety.
10. The Judge gave credible reasons for rejecting the appellant's evidence of an attack on him on 9 January 2013 by people on motorbikes at 10.30 in the morning who he claims started shooting at his car. The evidence was that there were speed breakers on the road in front of each house (bumps on the road). The appellant's evidence was that he had a gun which was in the pouch on his chest. The Judge did not find it credible that after having been fired and having a gun on him the appellant found it impossible to use the gun as a police officer and not shoot back. The Judge was entitled to find that the reason that the appellant gave for having a gun was to defend himself and yet his claim to be powerless to do anything when attacked by two motorcycles while he was in the safety of a car. The Judge further noted that the speed bumps were outside every person's house, it would have been difficult for a motorcyclist to negotiate them, attack the appellant in a car and make off. The Judge noted the appellant stated experience and certificates of achievement and qualifications he provided relating to motorcycling and basic patrolling could not identify the attack is imminent and would not have taken effective evasive encounter steps especially given his evidence that he did not see them prior to the attack, contributes to the story not being credible. These are appropriate findings on the evidence.
11. There was no material error when the Judge found that a genuine account would have been marked by details of any injuries sustained by the appellant due to the shattering glass. The Judge was entitled to find that if an attack had happened and gunshots were fired at his car, they would have been some description of any injuries or lack thereof and or the reasons why there was no injury.
12. The Judge also did not find credible that as a seasoned police officer, the appellant could not recall the registration plate of the motorbike especially since he was at the front and the motorbikes were behind him. The Judge did not believe the appellant when he said that he sped ahead and after a while he checked his mirror, but the bikes were not there. The Judge did not believe the appellant's explanation for his inability to give a description of the men was because he was concentrating on saving his life. This is a conclusion to which the Judge was entitled. The Judge was entitled to find that the attack did not happen.
13. The Judge also did not believe that the bomb explosion the appellant claimed that happened the next day near the same street a mile from where he lived had anything

to do with the appellant. The Judge found that not only did the attack not occur, but there was no record of the bomb blast on that day as claimed by the appellant.

14. The Judge did not accept that the appellant's family received threatening letters as claimed by the appellant because his evidence was that there are 4-5 checkpoints on the road where his family lives. Furthermore, the appellant claims that his family did not report this letter to the police even though he claims to be a powerful and well-known police officer. The Judge was entitled to find that it is inconsistent with his claim to suggest that his family would not seek help from the police. The Judge's conclusion that the appellant's claim that a letter was delivered to his family home is a fabrication designed to bolster of false claim for asylum this was a conclusion open to him.
15. The Judge did not accept the appellant's claim that if he returns to Pakistan that terrorists will kill him but noted that the appellant returned from Sudan to Pakistan and then flew to Karachi and that took a domestic flight to Quetta airport and a taxi home. The Judge did not find the appellant's explanation credible that he was travelling alone and did not tell anyone. This finding was open to the Judge on the evidence.
16. The judge found that the appellant's family has lived safely at the same house in Pakistan and did not accept the appellant's evidence that they do not come out of the house except in the neighbourhood, which is sealed, and which has several checkpoints. The appellant claimed that his children have stopped attending school for fear of kidnap this is not credible. Judge found that if a serious terrorist wished to kidnap or harm the appellant's family, they would have found a way to do so. The Judge also did not believe that the appellant's children do not go to school given that his brother is a schoolteacher. The Judge also noted that the appellant has a brother was a deputy inspector's general, which the appellant claimed was a high rank, who is retired and still lives in Pakistan. The judge was entitled to find that the appellant's family continues to live and work as Hazaras in Pakistan. The judge also concluded that if the appellant genuinely believe that his family were at risk, he would have taken clear steps to address that danger.
17. The Judge also did not find it credible that a man under threat would be able to travel internationally. He did not find it credible that his claim that simply by not telling his family and police of his return would not protect him.
18. The Judge took into account the evidence of Mr Karim Bakhsh who gave evidence at the hearing and claimed that he has been recognised as a refugee in Sweden. The Judge was entitled to find that he had provided no documentary evidence of this. The Judge was not looking for corroboration but said that as a police officer himself, Mr Bakhsh should have known that documentary evidence would be required of his claim that he has been granted asylum in Sweden for the reasons that he said he has. The Judge was entitled place little weight on his evidence. In any event judge was entitled to consider the appellant's case on its own merits.

19. The Judge took into account that the appellant is a Hazara and considered the background evidence including the expert report. He noted that there is much objective evidence of the generalised and serious violence against the Hazara community Pakistan. He referred to a report dated 27 November 2018 which identifies the improving picture that is in accordance with other objective evidence. The many deaths in 2013 and 2014 have reduced and the only one recent attack is dated 30 April 2018 and described as “apparently” because the victims belonged to the Hazara community. The picture is improving and fast moving, and risks are diminished. The noted that the expert report was not balanced as it predicated on old figures and he cherry picks phrases and for example Human Rights Watch World Report in Pakistan is reduced to 2 ½ lines and fails to identify anything positive at all. This was open to the Judge in his evaluation of the expert report.
20. The Judge further noted that the expert does not consider the fact that the appellant has worked for some 20 years with the police force and came to no actual harm. The Judge noted that although the expert states that the facts are up to the Judge, paragraph 117 the expert assumed the accounts by the appellant are accepted and bases his opinion on his past experience as a high-profile officer. The expert speaks of the appellant risk of continued violence whereas the Judge found that the appellant has not experienced the risks he claims. The Judge found that the experts gloomy picture at paragraph 120 of attacks on police officers and the police service seeing a State not caring for it, is at odds with the appellant’s accounts of significant training, successful raids, his acknowledgement and rewards as an efficient officer postings abroad to train others working with the United Nations and the United States government.
21. The Judge therefore was entitled to find on the evidence that the appellant can return to Pakistan and live with his family as he has done in the past. He was entitled to find the appellant was not targeted by groups he worked against or that they would be waiting for him on return find him and target him on return.
22. In respect of Article 8 the Judge was aware that the appellant does not have family life in this country because all his family is in Pakistan which is why he said that there are no circumstances in this matter that was him to consider the matter outside of the immigration rules. There is no material error of law the Judge not to have considered Article 8 the circumstances of this appeal. The appellant is a failed asylum seeker, and, in the circumstances, no differently constituted tribunal would find that there has been a breach of Article 8.
23. I find there has been no error of law in the decision, material or otherwise, in respect of the findings made by the Judge on the evidence before him. I therefore uphold the First-tier Tribunal’s decision.

Notice of Decision

24. I therefore uphold the decision of the First-tier Tribunal Judge and I dismiss this appeal.

Signed

Dated this 20th day of April 2019

Deputy Upper Tribunal Judge
Ms S Chana