



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-000141

First-tier Tribunal No: PA/51781/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 22 May 2023**

**Before**

**UPPER TRIBUNAL JUDGE KAMARA**

**Between**

**QQ**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Ms T White, counsel instructed by Ali Levene Solicitors  
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**Heard at Field House on 27 April 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

Introduction

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge John Hillis heard on 21 October 2022.
2. Permission to appeal was granted by Upper Tribunal Judge Lindsley on 22 February 2023.

### Anonymity

3. An anonymity direction was made previously and is maintained as this is a protection matter.

### Factual Background

4. The appellant is a national of Pakistan. She entered the United Kingdom on 21 September 2017, with entry clearance as a student and applied for asylum on 11 January 2019.
5. The basis of the appellant's claim, in brief, is that she was a lawyer in Pakistan and that owing to a particular case with which she was involved, her own life and that of her family were threatened. The appellant's husband and three children are dependent upon her claim.
6. The decision under appeal is the Secretary of State's letter dated 25 April 2022. In summary, the protection claim was refused owing to an absence of a Refugee Convention reason, as well as on credibility grounds owing to internal inconsistencies, speculation and a lack of detail.

### The decision of the First-tier Tribunal

7. It suffices to say that the judge found the appellant's evidence to be vague and inconsistent and reached the conclusion that she had not demonstrated that she faced persecution in Pakistan nor that her rights under Articles 2 and 3 ECHR would be breached. The appellant did not pursue a claim under Article 8, either within or outside of the Immigration Rules.

### The grounds of appeal

8. The overarching ground of appeal was that the judge misdirected himself in assessing the credibility of the appellant's claim. The grounds refer to five instances where it is said that the judge misdirected himself or failed to consider evidence.
9. Permission to appeal was granted on the basis sought, with the judge granting permission making the following remarks.

The grounds are arguable, although the appellant will have to show that any errors are material given the other negative unchallenged findings (for instance the fact that her husband did not give evidence despite having been attacked himself and other inconsistencies in the evidence) against the appellant's credibility.

10. The respondent filed a Rule 24 response dated 9 March 2023, in which the appeal was opposed.

### The error of law hearing

11. At the outset, Ms Everett stated that she stood by the Rule 24 response. Thereafter, I heard detailed submissions from Ms White who summed up the appellant's complaint by stating that there were factual errors by the judge which affected half of the applicant's case, and which infected the entire decision. She added that there had been a failure to address the appellant's case within the cultural context. Otherwise, Ms White followed the format of the grounds of

appeal, explaining why she considered that the respective findings of the judge amounted to material errors of law.

12. Ms White accepted that she may be wrong in submitting that the Pakistan authorities do not give permission for evidence to be taken from within its jurisdiction. She also referred to a skeleton argument sent on 23 April 2023 which neither the Upper Tribunal nor the respondent had received and stated that she would send it again.
13. Ms Everett submitted that she had sympathy with the criticisms of the decision which were based on plausibility however, the judge was entitled to assess the documents the appellant provided in support of her claim and entitled to make findings on any contradictions. Ms Everett contended that the judge was correct to find that the absence of evidence from supporting witnesses who were accessible was damaging to the appellant's credibility. The judge's findings were not determinative of the appeal, sustainable and there was no material error of law.
14. At the end of the hearing, I reserved my decision to await receipt of Ms White's skeleton argument.

#### Decision on error of law

15. In reaching this decision, I have taken into consideration all the evidence as well as the oral and written arguments of the representatives. I find that the First-tier Tribunal made no material error of law for the following reasons.
16. Of the five complaints made in the grounds, the first is that the First-tier Tribunal erred in finding that the FIR dated 17 April 2015, relied upon by the appellant, included the claim that she had been warned 'many times' by members of the Taliban to withdraw from a particular case and contrasting this with the appellant's oral and written evidence that the first time occasion she had been threatened was on 17 April 2015. It is hard to understand the criticism in the grounds as this is not a case of the judge viewing matters through the prism of his own experiences. The FIR was said to have been produced following the appellant's attendance at the police station on the date in question. Accordingly, any inconsistency in the account given to the police is the responsibility of the appellant. The judge was further entitled to note that the FIR was dated 17 April 2015, which was inconsistent with the appellant's evidence that the police delayed in producing the document until the following day. The judge was wholly entitled to take these issues into account in determining how much weight should be placed on the FIR.
17. The second ground concerns the judge's assessment of a document said to have been issued by the Karachi Graveyard authorities, in that he noted that the said document indicated that the appellant's cousin had died in hospital according to the informant who was the cousin's father. The judge noted that the appellant's evidence, given on many occasions, was that her cousin had died of gunshot wounds on the spot. The ground argue that the judge erred in finding this inconsistency to adversely affect the appellant's credibility given that she was not able to give a medical judgment as to the cause of death and nor was she responsible for the information given to the authorities. The judge also noted the absence of any evidence from the appellant's husband who resides in the United Kingdom and who was said to have been present as well as injured when the cousin was killed. Furthermore, the judge noted the lack of any supporting

evidence showing that the appellant's husband was injured in this incident. Ultimately, the judge was entitled to conclude that the document relied upon as proof of the death of the appellant's cousin did not merit evidential weight.

18. Thirdly, it was argued that the judge erred in finding it implausible that the Taliban had not immediately killed her husband after they encountered him after the shooting incident. It being argued that the judge ascribed behaviour to extremists from an alien background. There is some merit to this argument, as this appears to have been a chance encounter and it is difficult to predict how members of the Taliban might act, let alone to state that 'they would in all likelihood have killed him in public there and then' as the appellant's cousin had been killed. Nonetheless, this was not the only reason the judge gave for having concerns that this incident occurred. At [39], the judge refers once more to the absence of written or oral evidence from the appellant's husband, who is dependent upon her appeal. Furthermore, at [40], the judge comments on the varying accounts given by the appellant as to whether it was she or her husband who were riding the motorbike at the time of this incident. It is worth noting that at this section of the decision, the judge is merely assessing the documentary evidence and has yet to begin his consideration of the appellant's claim.
19. Ground four concerns the judge's comment that the appellant, as a trained lawyer ought not to make such fundamental errors if she was relating a truthful account of these significant events. That comment related both to the appellant's inconsistent account regarding who was riding the motorbike as well as her inconsistent account of the colour of the turbans worn by her assailants, the relevance being that this is how the appellant knew that the assailants were members of the Taliban. It is argued in the grounds that the judge failed to take into consideration that the events had taken place in 2015, were of a traumatic nature and that the appellant was aged only twenty-four at the time. It is not an error for the judge to take account of the appellant's high level of education in assessing the weight to be attached to these inconsistencies. The grounds amount to little more than disagreement with the findings of the judge and do not come close to explaining away the inconsistencies. Considering the totality of the judge's findings, I detect no material error of law here.
20. The fifth and final ground contains criticism of the judge for finding that the lack of evidence from witnesses (the appellant's father as well as the appellant's friend who was involved in the case which was said to have caused the appellant these difficulties) reduced the credibility of her claim. It is argued that as these potential witnesses were in Pakistan, they would not have been able to give evidence remotely nor obtain visas to travel to give evidence in person. At the hearing, I informed Ms White that I was aware that the Pakistan authorities permitted evidence to be given remotely from Pakistan. Ms Everett submitted that this was also her understanding. Ms White did not seek to persuade me otherwise. It is apparent from the grounds and the decision that neither potential witness submitted a statement. The judge was entitled to note that the appellant's father is a lawyer and/or a civil servant and there is no error in the judge's assessment that the appellant's father would have wished to provide an affidavit, give evidence remotely or travel to the United Kingdom to support his daughter, son-in-law and grandchildren. The grounds attempt to explain the lack of witness statements by arguing that no weight would have been placed on them had they been available. Such a claim is manifestly wrong.

21. There were other judicial findings which were not subject to challenge including the appellant's varying account of her father's occupation, her inconsistent accounts of how many times her husband had been attacked, the implausibility of her professionally occupied female friend who accompanied her not being attacked on 17 April 2015 and her delay in leaving Pakistan notwithstanding the claimed threat to her life. Additionally, the judge found that the appellant's credibility was further damaged because she delayed applying for asylum and only did so after her leave to remain in the United Kingdom as a student was curtailed and that the reason provided for this delay was lacking in credibility.
22. Ms White added that the appellant as a professional would have no reasons to flee were her life not at risk. This submission amounts to no more than speculation as there are many reasons why a family might choose to relocate to another country, other than having a well-founded fear of persecution.

### **Decision**

**The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.**

**The decision of the First-tier Tribunal is upheld.**

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**28 April 2023**

### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

**5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**

**6. The date when the decision is “sent’ is that appearing on the covering letter or covering email**