



**Upper Tribunal  
(Immigration and Asylum Chamber)  
UI-2022-003043**

**Appeal Number:**

**First-tier Tribunal**

**No: PA/54759/2021**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons**

**Promulgated**

**On 1 September 2023**

**5<sup>th</sup> September 2023**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**MR M I  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr D Sellwood, Counsel  
(instructed by I P Solicitors)

For the Respondent: Ms S McKenzie, Home Office Presenting Officer

**DECISION AND REASONS**

1. Permission to appeal was granted by First-tier Tribunal Judge Komorowski on 28 June 2022 against the decision to dismiss the Appellant's international protection appeal based on his bisexual orientation made by First-tier Tribunal Judge S George in a decision and reasons promulgated on or about 21 April 2022.
2. The Appellant is a national of Pakistan, born on 25 August 1974. He had entered the United Kingdom on 10 January 2010 as a Tier 4 (General) Student. His leave

was extended until 10 December 2014. The Appellant returned to Pakistan in 2013, 2014 and 2015 for visits. After a gap in his leave, the Appellant was granted further leave to remain as a Tier 2 skilled worker until 24 April 2018. His wife and three children were refused leave to enter as his dependents in 2017. On 21 January 2019 the Appellant applied for leave to remain on Article 8 ECHR grounds which was refused. He did not appeal. On 4 February 2020 the Appellant claimed asylum, which was refused on 17 September 2021.

3. Judge George found that the Appellant had not proved that he was bisexual. The judge considered that the Appellant's account of his attraction to men was vague and lacked emotional depth, accepting that sophisticated language was not required. The Appellant's evidence had not explained any reflection or cultural confusion on his part given his cultural background as a Pakistani Muslim man. The Appellant's evidence was contradictory at various points, e.g., whether or not he had received sexual education and his relationship with his wife, and lacked credibility generally. It was unlikely that the Appellant would have taken the risk of having relationships in the United Kingdom with men from his country when he claimed that he was hiding his sexuality. The judge rejected the Appellant's claims to have had involvement with gay groups. The photographs and social; media extracts the Appellant produced attracted little weight. The asylum claim had been made as a last resort, all previous applications having failed. There were no exceptional circumstances and there was no Article 8 ECHR disproportionality, within or outside the Immigration Rules. Hence the appeal was dismissed.
4. Permission to appeal was granted by First-tier Tribunal Judge Komorowski because it was considered arguable that the judge's expectation that the Appellant could give a more detailed or articulate description of his feelings some years earlier as an adolescent who was becoming aware of his attraction to other males was irrational. Judge Komoroski rejected the assertion that the judge should have asked the Appellant to elaborate on the subject, as it had been raised in the reasons for refusal letter. It was however arguable that the judge ought to have addressed the supporting evidence of Mr MU and had failed to do so.

5. There was no rule 24 notice from the Respondent but Ms McKenzie indicated that it was not accepted that the decision contained any material errors of law.
6. Mr Sellwood for the Appellant relied on the grounds and the grant of permission to appeal. In summary counsel submitted that the judge had failed to provide any assessment of the evidence of a significant witness, Mr MU, who had confirmed the Appellant's orientation. No reasons had been given by the judge. The judge had failed to address other evidence of significance, such as the Appellant's mention of his approach to his religion and why he had sponsored his wife to come to the United Kingdom. The judge had not followed the CPIN report on Pakistan which had been provided as part of the Appellant's evidence. The judge had not addressed the evidence of another supporting witness, Mr UL.
7. The judge should have given the Appellant the opportunity to respond to the concerns she had identified in his evidence. Her approach had been inflexible when considering what the Appellant had actually said about his bisexual feelings. It was only fair for the Appellant to have been given the opportunity to respond. The judge had acted with procedural unfairness. The appeal should be allowed.
8. Ms McKenzie for the Respondent submitted that all of the Appellant's complaints amounted to no more than disagreement with a decision which had been open to the judge. The main basis of challenge to the Appellant's claims had been set out in detail in the reasons for refusal letter and judge had explored the Appellant's case on that basis. The Appellant was on full notice of the case he had to answer. The judge had directed herself appropriately. The judge had sufficiently considered the evidence of the Appellant's supporting witnesses. The appeal should be dismissed.
9. Mr Sellwood in reply emphasised that it was not accepted that the judge had accurately summarised the evidence of Mr MU, as well as making no findings about that evidence. The appeal needed to be reheard before another judge.
10. The grant of permission to appeal was mainly directed to the rationality of the judge's expectations from the Appellant as to his ability to describe his orientation. The country background evidence was not in dispute

and the judge assessed the evidence on that basis, well aware of the dangers faced by openly gay and bisexual men in Pakistan. Any suggestion to the contrary is ill founded.

11. The Appellant's evidence was demonstrably thin and vague, as the judge found, and as had been expressly raised in the reasons for refusal letter with reference to the asylum interview record. The Appellant was on clear notice that he would have to address that issue. As Judge Komorowski observed in the grant of permission to appeal, it was not for the judge to prompt the Appellant to have a "second go" at refuting the Respondent's criticisms. There was no procedural unfairness: the judge was entitled to give her assessment of the evidence the Appellant put forward.
12. At [43] of her determination the judge observed that if the Appellant had been given sex education in Pakistan then the religious instruction would have been that homosexuality of any kind was prohibited. It would then have been even more likely that the Appellant would have been able to provide a more detailed description of his feelings for boys and girls, or at the very least, an expression of his confusion and concern but there was nothing of the kind. Mr Sellwood submitted that [30] of the Appellant's witness statement had been ignored ("I am a Practising Muslim, but again my believe is that religion and sexuality are two different things. I cannot kill my feelings because I am a good Muslim." ) but the tribunal disagrees. [43] of the judge's determination provides sufficient reasons for the judge's finding. There was no irrationality.
13. The evidence of Mr MU was plainly considered by the judge, who provided an adequate summary of its main points at [36]. That witness statement was brief, barely a page long. The witness claimed that he had known the Appellant for "an extremely long time", which elsewhere he said was "since 2018", which is barely three years. That provides the flavour of the witness statement. There was little detail and much assertion. Mr UL, who provided an even shorter witness statement, did not even attend the hearing. It is obvious from the judge's determination that neither witness statement attracted weight.
14. The judge's view that the photographs produced by the Appellant of his social life in the United Kingdom were

anodyne and took his case no further was plainly right: see [49] of the determination, where the judge also explained why little weight was due to the social media produced. The judge stated at [45] that she found it unlikely that the Appellant who had been concealing his sexuality would take the risk of having relationships with Pakistani men in the United Kingdom. That was a reasoned finding open to the judge on the evidence before her, which included the facts that the Appellant had made three visits to Pakistan since first coming to the United Kingdom and had sought to bring his wife and three children to the United Kingdom in 2017.

15. Sexual orientation claims, like religious conversion claims, are seldom easy to decide. The judge looked at the whole of the evidence and applied no preconceived ideas. The present appeal was not one where the Appellant claimed that he had suddenly discovered (or accepted) his true nature, i.e., a *sur place* claim. On his own case, the Appellant was well aware of religious and societal attitudes to homosexuality and/or marital infidelity in Pakistan, before he came to the United Kingdom to study and later extended his stay to work. Nevertheless the Appellant felt able to return to his wife and family in Pakistan on three occasions. The judge was entitled to find that his visits as well as his long delay in making a protection claim detracted from his credibility.
16. The tribunal concludes that the challenges raised by Mr Sellwood amount in the end to no more than disagreement with a careful decision. Mr Sellwood's demands of the decision would have meant a determination of encyclopaedic detail and unnecessary length. It is trite law that a judge does not have to deal with every single point which is raised before him or her, merely the decisive points which the judge did. In the tribunal's judgment the experienced First-tier Tribunal Judge reached sustainable findings, in the course of a balanced decision, which securely resolved the issues. The tribunal finds that there was no material error of law and the onwards appeal must be dismissed. The anonymity direction previously made is undisturbed.

## **DECISION**

The appeal to the Upper Tribunal is dismissed.

There was no material error of law in the First-tier Tribunal's decision and reasons, which stands unchanged.

**Signed**

**Dated** 4 September 2023

**R J Manuell**

**Deputy Upper Tribunal Judge Manuell**