



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

Case No: UI-2023-001645  
FtT No: DC/50033/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 6 August 2023**

**Before**

**UPPER TRIBUNAL JUDGE O'CALLAGHAN**  
**DEPUTY UPPER TRIBUNAL JUDGE SKINNER**

**Between**

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

Appellant

**and**

**ZULFIQAR AHMAD**  
(NO ANONYMITY ORDER MADE)

Respondent

**Representation:**

For the Appellant: Mr A Basra, Senior Presenting Officer

For the Respondent: Mr S Vokes, Counsel, instructed by M & K Solicitors

**Heard at Field House on 28 June 2023**

**DECISION AND REASONS**

**Introduction**

1. The parties are referred to as they were before the First-tier Tribunal: Mr Ahmad as the appellant and the Secretary of State as the respondent.
2. The respondent appeals against a decision of Judge of the First-tier Tribunal Gribble ('the Judge'), sent to the parties on 10 February 2023, allowing the appellant's appeal against a decision to deprive him of British citizenship.

3. Whilst the parties are aware of the facts and issues arising in this matter, we consider it appropriate to set out the factual history, the Judge's reasoning and the respondent's grounds of appeal at some length below.
4. It was the task of the Judge to decide whether the appellant is a national of Pakistan named 'Abdul Ghafoor', as asserted by the respondent. We find that the Judge gave cogent and lawful reasons for concluding that the appellant is 'Zulfiqar Ahmad', a national of Pakistan who was granted indefinite leave to remain in this country and was subsequently naturalised. Such error means the respondent has not established the condition precedent for depriving the appellant of his British citizenship, and so her appeal is dismissed.
5. For clarity, we identify the following cast of characters in the decision below:
  - 'Zulfiqar Ahmad' - Pakistan national born in 1960 - father and mother are 'Farid' and 'Zanib' respectively - the respondent's file reference begins with 'Z' - the appellant asserts that this is his identity.
  - 'Zulfiqar Ahmad' - Pakistan national born in 1960 - father and mother are 'Baqir' and 'Panan' respectively - the respondent's file reference begins with 'Z' - asserts that he is not the appellant ('Zulfiqar Ahmad 2')
  - 'Zulfiqar Ahmad' - Pakistan national born on 1 January 1960 - represented by Marks and Marks Solicitors - the respondent's file reference begins with 'G' and has a case ID beginning '019' ('Zulfiqar Ahmad 3')
  - 'Zulfiqar Ahmad' - Pakistan national born on 1 January 1960 - claimed asylum on 3 September 2015 - represented by Dawn Solicitors - the respondent's file reference begins with the same 'G' reference as 'Zulfiqar Ahmad 3' but with a different case ID beginning '021' ('Zulfiqar Ahmad 4')
  - 'Abdul Ghafoor' - Pakistan national born on 3 March 1961 - father and mother are 'Farid' and 'Zainab' respectively - the respondent asserts that this is the appellant's identity.

### **Brief Facts**

6. The respondent has produced a SAL1 document issued on 18 February 1999 confirming that a 'Zulfiqar Ahmad' arrived the previous day at Heathrow Terminal 3 and claimed asylum. His date of birth is identified as '1960'. 'Zulfiqar Ahmad's' passport number is recorded, and the form

confirms that his passport and identity card were kept by the respondent. No file reference is detailed on the document.

7. The appellant states that he is the 'Zulfiqar Ahmad' detailed above. He confirms that he is a national of Pakistan, born on 1 January 1960. He relies upon a birth certificate issued on 12 August 2010 and a Family Registration Certificate issued on 20 May 2015 to establish his identity. He states that he resided in Toba Tek Singh, Punjab province, and fled to the United Kingdom consequent to an outbreak of communal violence between Sunni and Shi'a in his home area. He states that he was a Sunni living in a predominantly Shi'a town and feared being subjected to physical violence.
8. The respondent contends that the appellant is actually 'Abdul Ghafour', a national of Pakistan born on 3 March 1963 in Toba Tek Singh, Punjab province, Pakistan. The respondent asserts that the real 'Zulfiqar Ahmad' was born on 1 January 1961 in Vehari, Punjab province, Pakistan, a town situated some 150 kilometres distant from Toba Tek Singh.
9. The respondent granted 'Zulfiqar Ahmad' indefinite leave to remain consequent to a Legacy exercise on 24 June 2010. He is recorded as living in Slough. The decision letter references the 'Z' file number. The appellant asserts that this grant relates to him. The respondent contends that the appellant intercepted a legacy questionnaire sent to 'Zulfiqar Ahmad' and assumed his identity. The returned questionnaire is no longer available to the respondent.
10. On 26 July 2011, 'Zulfiqar Ahmad 2' wrote to the respondent stating that his identity had been stolen by 'Abdul Ghafoor' and noted the difference in two photographs held on his file. Additionally, he identified his father as 'Baqir', his mother as 'Panan' and his grandfather as 'Sher'.
11. 'Zulfiqar Ahmad' subsequently applied for naturalisation, detailing by means of his application form dated 16 August 2011, *inter alia*,
  - He was born on 1 January 1960 in Toba Tek Singh.
  - He resided in Slough.
  - His father was 'Farid Ahmad', born in Toba Tek Singh in 1916.
  - His mother was 'Zanib Bibi' born in Toba Tek Singh.
  - He was married to 'Farida Bibi' in Toba Tek Singh in 1987.
  - His wife was born in 1976.
  - He arrived at Heathrow Airport in 1999.
12. On 18 January 2012, 'Zulfiqar Ahmad' was naturalised as a British citizen.

13. On 21 February 2012, just over a month later, 'Zulfiqar Ahmad' was issued with a decision that his British citizenship was null and void.
14. An NTL application form was filed by 'Zulfiqar Ahmad', dated 11 April 2013, identifying, *inter alia*,
  - He was born on 1 January 1960.
  - He was born in Toba Tek Singh.
  - He lived in Slough.
15. On 8 January 2018 the respondent wrote to 'Zulfiqar Ahmad' observing the judgment of the Supreme Court in *R (Hysaj) v. Secretary of State for the Home Department* [2017] UKSC 82, [2018] 1 W.L.R. 221 and confirming that she would review the nullity decision.
16. On 5 March 2018, Marks and Marks, Solicitors, Harrow, wrote to the respondent on behalf of 'Zulfiqar Ahmad 3', using the 'G' reference, detailing:

“... it is submitted by our client that he had been encountered by immigration enforcement officers and upon investigation it had been revealed that our above named client had already been granted ILR, the applicant submits that he is the victim of identity theft and in fact he is the correct and actual person named Zulfiqar Ahmad DOB 01/01/1960 who should have been granted ILR, and that another individual has adopted his identity and taken advantage of his immigration status, as he had been granted ILR.

Having obtained the Home Office copies of his files it has been revealed that the photo that appears on the granted ILR is of another, posing to be our above named client and in fact this individual is the rightful person entitled to be granted the same.

We request that this matter is thoroughly investigated and thus our client should be issued with the appropriate documentation as he is the entitled person to be granted the ILR”.
17. The respondent has provided no information to establish that 'Zulfiqar Ahmad 2' and 'Zulfiqar Ahmad 3' are the same person. The primary means of establishing this fact would be to explain that the two references, beginning 'Z' and 'G', relate to the same person. To date, this step has not been undertaken.
18. By a notice of intent letter dated 19 August 2021, the respondent informed the appellant that she had received information indicating that he had assumed an identity of 'Zulfiqar Ahmad' consequent to which he acquired ILR outside of the Immigration Rules and used this status to acquire naturalisation as a British citizen. The respondent stated that photographic evidence showed that the appellant entered the United Kingdom as 'Abdul Ghafour' in 2005.

19. The appellant responded by a letter from his present legal representatives, dated 5 November 2020. He confirmed that he is 'Zulfiqar Ahmad' and has never used the identity 'Abdul Ghafour'.
20. By a letter dated 11 February 2022 the respondent gave notice of her decision to deprive the appellant of his British citizenship under section 40(3) of the British Nationality Act 1981 detailing, *inter alia*:
  - '9. You claim to have entered the UK clandestinely on an unspecified date in February 1999. In your statement dated 5 November 2021, you confirm that you used your own passport, but did not know what visa you used to enter to the UK on. You state on entry to the UK, your fingerprints and photographs were taken by Immigration officers at Heathrow airport.'
21. The respondent identified the core of her concerns:
  - '13. On 17 February 1999, the genuine Zulfiqar Ahmad arrived in the UK on a flight into terminal 3 of Heathrow airport. He made an Asylum application and his fingerprints and photographs were taken. He was issued with a SAL 1 document dated 18 February 1999. The SAL1 document contains a photograph and is that of the genuine Zulfiqar Ahmad. (Annex B: SAL 1 document refers).
  14. You applied under the name Abdul Ghafoor for entry clearance to the UK, in Islamabad, on three occasions. Abdul Ghafoor was issued visit visas to the UK on 14 November 2002 for six months, 16 October 2003 for six months and 17 November 2005. On the application Abdul Ghafoor's Father was named as Fareed Ahmed and Mother named as Zainab Bibi. He was issued with a two-year visitor visa on 24 December 2005 and he travelled to the UK from Islamabad on 26 December 2005 (Annex C: entry clearance record refers).
  15. In 2010, a legacy questionnaire was issued to Zulfiqar Ahmad at address [in Southall]. On 24 June 2010 a legacy questionnaire was returned to the Home Office in the name Zulfiqar Ahmad, date of birth 1 January 1960 address [in Slough]. The returned questionnaire is not available on Home Office records. On 24 June 2010 Indefinite Leave to remain outside immigration rules, under paragraph 395C, was granted to Zulfiqar Ahmad. A letter was issued to confirm the grant was sent to [an address in Slough] (Annex D: ILR grant letter confirms).
  16. On 16 August 2011 you made an application for naturalisation as a British Citizen in the name Zulfiqar Ahmad by completing application form AN (Annex E: AN application form September 2010 refers). In section 1 of the application form you confirm your name to be Zulfiqar Ahmad date of birth 1 January 1960, place of birth Toba Taxin (Annex E: page 3 section 1 refers). At section 1.7 you were asked if your name at birth was different from the name shown on your passport, you left this section unanswered. At section 1.8 you were asked if you are or had been known by any

other name apart from the name(s) previously mentioned on the form: you left this section unanswered.

17. At section 1.23 of the AN application form you provide your parents details. You confirm that your Father's name is Farid Ahmed born 1916 in Toba Tek Singh, Pakistan. You confirm that your Mother's name is Zanib Bibi, you left that date of birth section unanswered and confirm her place of birth as Toba Tek Singh, Pakistan (Annex E: page 5 section 1.23 refers).
18. At section 1.31 of the AN application form you provide your wife's details. You confirm your wife's name is Farida Bibi date of birth 1 January 1976, place of birth Toba Tek Singh, Pakistan. You confirm your wife resides in Pakistan and your date of marriage as 1987 (Annex E: page 6 section 1.31 refers).

...

20. On 11 April 2013 an NTL application was completed and received by the Home Office for an Indefinite Leave to Remain stamp to be applied to Zulfiqar Ahmad's passport (Annex F: NTL application refers). On completing the NTL application form at section 7: declaration by applicant you stated the following:

***I understand that providing information or documentation that is not correct will normally result in my application being refused and may lead to my prosecution for a criminal offence.***

The residence permit document was issued into Zulfiqar Ahmad's Pakistan passport. (Annex G: ILR endorsement refers).'

22. The respondent proceeded to observe the position of the person she believes to be 'Zulfiqar Ahmad':

"21. Your case was referred to UK Visas & Immigration, Status Review Unit (SRU) when the genuine Zulfiqar Ahmad contacted the Home Office to report identity theft.

...

23. On 9 November 2018 a letter was received by the Home Office from representatives Marks and Marks Solicitors (Annex I: Solicitors letter refers). The letter states the genuine Zulfiqar Ahmad had received the Home Office letter with regards to the Nullity decision and had thus discovered his identity had been stolen and his immigration history taken advantage of (Annex I: page 3 paragraph, 3 refers)".

23. The respondent further detailed her contact with the Pakistani authorities:

"24. Upon receiving this information Status Review Unit (SRU) conducted further checks to confirm your genuine identity. SRU made enquiries with the Embassy in Islamabad. A copy of the

genuine Zulfiqar Ahmad's family certificate was received (Annex J: Family certificate refers). The family certificate confirms Zulfiqar Ahmad date of birth 1 January 1960, his Father as Ghulam Baqir and Mother as Panan Bibi. Zulfiqar Ahmad's wife is confirmed as Sarwar Begum. The family certificate confirms four children, three sons and a daughter born between 1980 and 1990".

24. The attested family certificate issued by the Pakistani Ministry of Interior details, *inter alia*:

- 'Zulfiqar Ahmad' was born in 1960.
- His wife, 'Sarwar Begum', was born in 1960.
- His father was 'Ghulam Baqir'.
- His mother was 'Panan Bibi'.
- He has four children born between 1980 and 1990.

25. The respondent concluded as to identity:

'27. On 17 November 2005 an application for entry clearance into the UK was made from Islamabad, Pakistan (Annex C: entry clearance record refers). SRU conducted further enquiries with the embassy in Islamabad, who confirmed Abdul Ghafoor did not return to Pakistan following travel to the UK on the visit visa granted for two years. It is considered likely that the photographs for the AN application (Annex E refers), the NTL application (Annex F refers) and the ILR endorsement (Annex G refers) are of the same individual who was granted entry clearance to the UK in 2005, namely Abdul Ghafoor. When the photographs on these documents are compared together against the photograph on the SAL 1 document (Annex A refers), of the genuine Zulfiqar Ahmad, it is clear, that they are not of the same individual.

...

31. As stated above, you entered the UK in 2005 on an entry clearance visa in your genuine identity Abdul Ghafoor, 3 March 1961, Toba Tek Singh Pakistan. It is considered that, in 2010 you intercepted a legacy questionnaire sent by the Home Office that was destined to another person - the genuine Zulfiqar Ahmad. You returned the questionnaire assuming this identity and completed it with your home address and photographs in the name Zulfiqar Ahmad 1 January 1960. This act of fraud is evidenced by the SAL 1 document and family certificate for the genuine Zulfiqar Ahmad compared with the AN application, NTL application and ILR endorsement vignette, which all match the photograph from your entry clearance record in 2005, confirming your genuine identity.

It is considered that your actions were deliberate. Carried out to subvert the UK immigration system and gain settled status to



which you were not entitled. Your fraudulent representations using another individuals' personal details and immigration history meant you were able to show a significant period of residence in the UK, which was the reason you were granted ILR. This was the residence of another person. One whose identity you have assumed. Your deception can therefore be seen to be material to the grant of settled status necessary to apply for citizenship. You continued this deception when naturalising and clearly had no intention of revealing the truth of your own accord.

32. You continue to maintain that Abdul Ghafoor 3 March 1961 is not your genuine identity and have failed to inform the Home Office of your genuine identity, even though photographic evidence is clear that you are not the genuine Zulfiqar Ahmad who entered the UK in 1999. You have failed to provide sufficient evidence to validate your claim to be the genuine Zulfiqar Ahmad. This shows deliberate intent to deceive the Home Office. Chapter **55.7.7.1** confirms:

***The caseworker should be satisfied that there was an intention to deceive: an innocent error or genuine omission should not lead to deprivation. However, a deliberate abuse of immigration or nationality application processes (for example Knowledge of Life/ESOL testing) may lead to deprivation.***

...

34. For the reasons given above it is not accepted there is a plausible, innocent explanation for the misleading information which led to the decision to grant citizenship. Rather, on the balance of probabilities, it is considered that you provided information with the intention of obtaining a grant of status and/or citizenship in circumstances where your application(s) would have been unsuccessful if you had told the truth. It is therefore considered that the fraud was deliberate and material to the acquisition of British citizenship'.
26. The appeal came before the Judge sitting in Birmingham on 30 January 2023. The appellant attended and gave evidence along with a friend, Mr Arif Hussein. The latter informed the Judge that he had known the appellant as 'Zulfiqar Ahmad' since 2000 and that they had resided together in properties at various times between 2000 and 2006.
27. The appellant relied upon various documents, including:
- His birth certificate - partially in English, partially in Urdu - dated 12 August 2010, naming his parents as 'Farid Ahmad' and 'Zanib Bibi'.
  - A driving licence issued by the Traffic Police, Punjab on 15 November 1998.



- A Family Registration Certificate issued by the Ministry of the Interior, Pakistan, on 20 May 2015, in the name of 'Fareeda Bibi', identifying his wife as being born in 1976, and the appellant as the father of their six children born between 1994 and 1999.
- Documents confirming the appellant's residence and employment in this country from 2009.

28. We consider it appropriate to detail the Judge's reasoning in its entirety:

- '24. I have considered all of the evidence, written and oral, with care. The essence of the respondent's case is that the appellant is in fact Mr Abdul Ghafoor who came to the UK in 2005 and overstayed. He intercepted documents for the real Mr Ahmad and assumed his identity, obtaining citizenship knowing he was using false details.
25. It is dangerous to rely on photographic evidence, but I comment at the outset that the photograph of Mr Ghafoor and the photograph of the appellant are very clearly not the same person. Similarly, the photograph on the SAL form and the appellant are not particularly similar.
26. Following the paper trail is key here. In 2010 when Mr Zulfiqar Ahmad applied for citizenship his UKBA reference (page 131) is [Z] His leave is granted to him using the same reference number. He provided a family certificate for his wife issued on 20.5.15. This shows he is her husband, and he is the father of 6 children, who he named in his oral evidence. The reference for this family certificate ends 345-5. It is manifestly not the same certificate as that for the other Mr Zulfiqar Ahmad.
27. To complicate matters, and equally critical to what I find has happened here, is the letter at page 91 written by the Home Office to Dawn Solicitors in December 2015 in respect of their client Zulfiqar Ahmad, who claimed asylum on 3<sup>rd</sup> September 2015. The reference on this letter is [G] with case ID [...]. This Mr Ahmad cannot be the appellant. The appellant was a British citizen in 2015 so there would be no need to claim asylum.
28. This reference number, [G] is used on correspondence from the Home Office to Marks and Marks solicitors in January 2018 at page 165. Critically also the case ID is different; it is [...]. It is clearly in my view a different Mr Ahmad. The second Mr Ahmad is more likely than not to be the person who claimed his identity had been stolen.
29. Leaving aside the appellant's own written evidence which as stated is beset by difficulties not of his own making, he has provided his wife's family certificate and his driving licence which show he is the same Mr Ahmad who is the father of 6 children and who applied for citizenship in 2010.

30. There is no reliable evidence to show this Mr Ahmad claimed asylum in 1999 or indeed in 2015. The SAL form photograph and the vaf form and the passport for Mr Ghafoor show clearly the appellant before me is not Mr Ghafoor.
31. That leaves the more likely scenario of there being 2 Mr Zulfiqar Ahmad's from Pakistan. Certainly, there is no suggestion that the family certificates of either are not genuine. The driving licence of the appellant is impugned because he has not provided the original, only a copy sent to him via WhatsApp. I make little of this being a copy in the context of the quality of the advice the appellant in this appeal has had overall. He did not strike me as a sophisticated man at all. If his representatives had asked for it to be posted to him, I find he would have obliged. That they did not seem to ask is not his fault, nor is it surprising.
32. There is substantial confusion with the documents in this case and it is in my view more likely that the asylum-seeking Mr Ahmad with home office reference [G] and 4 children has claimed his identity was stolen, leading to the investigation of this appellant. The consequent transposition of the reference numbers between the respondent and the solicitors and the identical names has led to the appellant before me being accused of fraud.
33. The evidence from the family certificates has not been investigated in my view with any vigour and whilst this has not been helped by the over complicated correspondence (and the claim the appellant was a dual Palestinian/Jordanian with British children) it is a significant issue of concern. It seems to me perfectly possible that there could be 2 men from the same part of a large country with the same name. It is equally possible that reference numbers can be transposed and that there has been a lack of rigour from all parties.
34. Following the dicta in **Begum** and in **Ciceri** I am satisfied that on the evidence before me no reasonable Secretary of State, properly informed and considering the documents with anxious scrutiny, could conclude this appellant had fraudulently obtained citizenship.
35. The condition precedent is not established. I cannot be satisfied this appellant behaved in a way to engage S40(3) of the British Nationality Act 1981. The appeal succeeds".

### **Grounds of Appeal**

29. We detail the relevant paragraphs of the respondent's grounds of appeal:

- '5. It is respectfully submitted that the decision letter [14, [17] and [27] confirm what photographic evidence, parental names and family documents were being relied upon in this matter. The parental names on the Application for citizenship match those parental names on the 2005 Vaf document and are not the parental names given to the SoS by the Pakistani authorities.

6. It is submitted that the FtT Judge in the assessment makes no finding on the evidence relied upon by the SoS instead appears to be side-tracked by other irrelevant evidence.
7. Had the judge considered the photographic evidence relied by the SoS the judge would not have reached the irrational conclusion [25] that the 'photograph on the SAL form and the appellant are not particularly similar'.
8. The SoS's case is exactly that ... the photograph on the SAL document and that of this appellant are not the same because they are different persons.
9. It is submitted that had the judge compared the correct photographs at Annex E, F & G of the SoS's bundle it would have been obvious that they were not the same person who claimed asylum in 1999. It will be respectfully submitted that it would also have been straightforward to identify from the CRS (VAF 2005) evidence that the photographs made in the application for ILR and Citizenship were of Mr Ghafoor who entered the UK in 2005 on a multi visit visa and did not return to Pakistan.
10. It is unclear [26] what finding the FtT judge is making here as firstly, it would be obviously correct that his application and grant of leave would be using the same reference no. [Z] being the same UK reference number allocated to the genuine Mr ZA in 1999. Secondly, the judge has failed to give any indication of the relevance of another family certificate being produced in 2015 and it being manifestly not the same as the other Mr Zulfiqar Ahmad. It is submitted that the point being taken by the SoS is that the appellant is actually Mr Ghafoor and not Mr Ahmad.
11. It will be submitted that the judge [27] is again incorrectly understanding the evidence presented as the letter from the Home Office to Dawn solicitors relates to an asylum claim made by the genuine Mr Zulfiqar Ahmed who, in 2015, was faced with removal on account of his lack of status in the UK him having never been granted ILR or Citizenship in the UK but has his identity stolen by Mr Ghafoor.
12. It is submitted that the findings [28-29-30] lack clarity and are confusing at best. It will be respectfully submitted that those findings are unsustainable and do not go to the core of this appeal. It is clear [29] that the judge has concerns about the appellant's own evidence but appears to discount that as the fault of the solicitors as mentioned [16] to which the judge gives latitude but offers no reasoning why this latitude is given.
13. The Judge [32-33] appears to set out the SoS case but concludes that the transposition of reference numbers has led to this appellant being accused of fraud. With respect to the judge it will be submitted that this appeal has nothing to do with a transposition of reference numbers it being incumbent of the judge to evaluate the reasons as set out above why British citizenship has been revoked.'

30. We are satisfied that a reasons challenge is being advanced.
31. Judge of the First-tier Tribunal Robinson granted permission to appeal on 16 May 2023, simply observing that it was arguable that the evidence material to this appeal had not been adequately considered.

### **Discussion**

32. A Presidential panel recently confirmed in *Chimi (deprivation appeals; scope and evidence) Cameroon* [2023] UKUT 00115 (IAC) that a Tribunal determining an appeal against a decision taken by the respondent under section 40(3) of the 1981 Act should consider the following questions:
  - (a) Did the respondent materially err in law when she decided that the condition precedent in s40(2) or s40(3) of the British Nationality Act 1981 was satisfied? If so, the appeal falls to be allowed. If not,
  - (b) Did the respondent materially err in law when she decided to exercise her discretion to deprive the appellant of British citizenship? If so, the appeal falls to be allowed. If not,
  - (c) Weighing the lawfully determined deprivation decision against the reasonably foreseeable consequences for the appellant, is the decision unlawful under s6 of the Human Rights Act 1998? If so, the appeal falls to be allowed on human rights grounds. If not, the appeal falls to be dismissed.
33. In considering questions (a) and (b), the Tribunal must only consider evidence which was before the respondent, or which is otherwise relevant to establishing a pleaded error of law in the decision under challenge.
34. In considering question (c), the Tribunal may consider evidence which was not before the respondent but, in doing so, it may not revisit the conclusions she reached in respect of questions (a) and (b).
35. Question (a) is at the heart of the appeal before the panel.
36. Whilst, as indicated to the parties at the hearing, we are satisfied that the reasons challenge must fail, we are alert to the fact that ultimately the information as to whether the appellant before us is or is not someone who genuinely entered the United Kingdom to claim asylum in 1999 and was subsequently granted settlement is a matter known not only to him but also to the respondent upon careful perusal of her files.
37. Mr Basra appropriately observed that the core assessment in this matter relates to the condition precedent. He also properly observed the recent Upper Tribunal decision in *Chimi*. We have noted the detailed grounds of appeal advanced in this matter.
38. We are satisfied that the Judge took great care to work her way through the evidence provided by both parties and reached a rational conclusion

that the condition precedent was not established. She gave cogent and lawful reasons as to why on the evidence before her the respondent could not reasonably conclude that the appellant had fraudulently obtained citizenship.

39. Stripping away the matters arising in this case there are two key judicial findings.
40. The first is located at [30] of the Judge's decision. We note that the respondent's grounds assert that her own case was that the SAL photograph was of a different person to that appearing before the Judge. As can readily be seen from paragraph 13 of the respondent's decision letter the assertion made therein was that the photograph was of the person the respondent considered to be the genuine 'Zulfiqar Ahmad'. However, whilst noting at [25] that the photograph on the SAL form was not particularly similar to the appellant, the Judge expressly considered the photograph of 'Abdul Ghafour' provided by the respondent at [30] and was satisfied that the person in the photograph was not the person before her. Consideration of this issue was a binary one. Either the photograph matched the appellant who was present before the Judge, or it did not. The challenge to this paragraph within the grounds of appeal is that the findings lack clarity and are confusing, therefore unsustainable. However, we are satisfied that the Judge could only make one of two decisions on this issue, and her reasoning is clear as to why she reached the decision she did. She reasonably concluded that she was looking at the photograph of a different person. At that point in time the respondent's case in respect of the condition precedent could not be sustained on public law grounds and so she materially erred in making her decision.
41. Secondly, the Judge found Mr Hussein to be a genuine witness, at [22]. His corroborative evidence is that he met the appellant, known to him as 'Zulfiqar Ahmad' in 2000 and resided with him both that year and again between 2004 and 2006. The respondent has not challenged this finding which adversely impacts upon her contention that the appellant is 'Abdul Ghafoor', a person who arrived in this country in 2005.
42. We conclude that once it is established that the Judge's finding at [30] of the decision was not erroneous in law, the respondent's challenge must properly fall away.
43. We acknowledge, as we did at the hearing, that ultimately answers to several relevant questions are contained within the respondent's files. Mr Vokes clearly and properly asserts that his client has been subject over many years to significant and adverse bureaucratic blunder. As we observed to the representatives, it was open to the respondent to undertake simple investigation of certain matters, such as whether the assertions by Mr Vokes's client as to his asylum claim tally with that presented by the 'Zulfiqar Ahmad' with the 'Z' case file when claiming asylum in 1999. The respondent could have provided clarity as to the process of securing information from the Pakistani authorities, for example

whether she used details provided by the passport and/or identity card taken from 'Zulfiqar Ahmad' when he claimed asylum in 1999. It was also open to the respondent to consider whether there is any significant link between the 'Z' and 'G' case files, and if so, explain such link. We note that 'Zulfiqar Ahmad' was fingerprinted when he claimed asylum in 1999. These, and likely other, simple steps have not been undertaken to date, and any potentially relevant information was not placed before either the First-tier Tribunal or this panel. We therefore properly proceed on the basis that the Judge's decision does not contain a material error of law. Consequently, the condition precedent is not established, and so the respondent's appeal must be dismissed.

### **Notice of Decision**

44. The decision of the First-tier Tribunal dated 10 February 2023, does not contain a material error of law.
45. The Secretary of State's appeal is dismissed.

*D O'Callaghan*  
**Judge of the Upper Tribunal**  
Immigration and Asylum Chamber

**24 July 2023**