



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

**Case No: UI-2023-001126
First-tier Tribunal No:
PA/53522/2021**

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 13 June 2024**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

M Z H

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant: Mr K Forrest, Advocate, instructed by McGlashan MacKay, Solicitors

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

Heard at Edinburgh on 5 June 2024

DECISION AND REASONS

1. FtT Judge Connal dismissed the appellant's appeal by a decision promulgated on 27 February 2023.
2. The appellant sought permission to appeal to the UT on 3 grounds. The first alleges absence of consideration of specified material which had not been before a previous tribunal, including witness evidence and an expert report. The second ground is a rather vague complaint of inadequacy of reasoning. The third is failure to apply guidance in *TF & AM v SSHD* [2019] SC 81.
3. FtT Judge Oxlade granted permission on 3 April 2023: ...

2. The appellant says that whilst acknowledging [23(v)] that the decision made against him in 2018 was a starting point in this appeal, and that the Judge could deviate in light of any changes and/or new evidence, the Judge nevertheless failed to consider vital pieces, including a statement of Mobeen Hassan dated 23rd October 2021 (page 25 stitched bundle), an expert report of Rehan Minhas (page 45 stitched bundle), a letter from Noor Bibi dated 19th September 2019, and an updated certificate dated 19th September 2019, and affidavits of the Appellant's wife/brother and friends.

3. It does not appear that these documents were specifically referred to in the Judge's decision, and should have been considered and arguable specifically addressed, so that the Appellant knew why the Judge's reasoning for concluding that there should be no shift from the starting point. I find that arguably there is an error of law.

4. In light of the above finding, I need not proceed to consider the other grounds argued; all remain arguable.

4. Mr Mullen said at the start of the hearing that the respondent acknowledged that ground 1 showed an absence of consideration, such that the decision could not safely stand. He said further that at [32] (iii) (f) (i) the FtT was wrong to diminish the weight of the evidence of the *maulana* of the mosque because it was not based on prior experience of conversions to Shia Islam, and that this point was brought out by ground 3. He observed that the Judge at [24] and at [28] noted the alternative issues of risk in Pakistan, even if the appellant is credible, legal sufficiency of state protection, and internal relocation, but at [33] she found it unnecessary to resolve those matters. This "left the job half done", and so the decision could not arguably be preserved.
5. Mr Forrest sought to show that once error was conceded, the UT should proceed to reverse the original outcome, but I was not persuaded that the case before the FtT was so obvious that the outcome on a genuine conversion was inevitable. I do not comment on the merits of the alternative issues, but it is unfortunate that those were not answered.
6. The decision of the Ft is set aside, other than as a record of what was advanced at the hearing. The case is remitted for fresh hearing before another Judge (not Judge Connal or Judge Clapham).
7. 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 his name or address of the appellant, likely to lead members of the public to identify him. Failure to comply with this order could amount to a contempt of court.

Hugh Macleman

Judge of the Upper Tribunal
Immigration and Asylum Chamber
7 June 2024