



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/13346/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 18 January 2019**

**Decision & Reasons
Promulgated
On 6 February 2019**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR S Z
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E W B Fripp, Counsel instructed by Morden Solicitors
For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The appellant is a national of Pakistan. In a decision dated 14 November 2018 Judge Manyarara of the First-tier Tribunal dismissed his appeal against the decision by the respondent dated 29 November 2017 to refuse his protection claim.

2. The basis of the appellant's claim was that he is a Christian in Pakistan and that he was involved in charitable and welfare and teaching activities there which began to cause difficulties for him when he allowed four Muslim students to join his class in the summer of 2011. Subsequently in July 2011 two men visited his home and they started vandalising things and accusing him of teaching children Christianity. He said he was punched and kicked and that the scars and wounds are still visible. His neighbours took him to the doctor and he was given painkillers. The police accused him of misguiding the children. He discovered on the same day that some Muslim sympathisers had had a meeting at a nearby mosque accusing him of teaching the Christian faith to Muslim students. A fatwa was issued against him. He fled from his home area and went to Lahore with his family and lived there for two months. He was then able to secure a student visa to come to the United Kingdom. His claim was that there is an outstanding FIR in his name and he is afraid that he will be arrested on account of the blasphemy charges brought against him.
3. The judge did not believe the appellant had given a credible account and concluded that apart from the fact that he was a Christian, something the respondent had already accepted, he had not shown that he had had adverse experience at the hands of Muslim extremists as a result of his activities in Pakistan teaching children.
4. The appellant's grounds are fourfold. Firstly, they contend that the judge failed to address corroborative material in relation to credibility and they identify in particular the statement of Mr Joseph Francis of the Centre for Legal Aid Assistance and Settlement (CLAAS) dated 2 October 2018. In this letter Mr Francis, who is an MBE, stated that he had had an approach from the appellant's family in January 2018 and was told that the appellant had faced difficulties at the hands of extremists in Pakistan. He stated in this letter:

"I decided to verify the facts narrated by the applicant's family for which I contacted Mr Naveed Amir Jeeva a Member of the National Assembly Pakistan who was residing in the same area as the appellant and his family. According to Mr Jeeva Zia and his family were facing threats from radical Muslims. After Mr Jeeva's confirmation of the facts I am convinced that Mr Zia's life is in danger".
5. The second ground contends that the judge made errors of fact which were material to the judge's assessment, in particular it is alleged that the judge wrongly considered that the appellant had left Pakistan as a result of a FIR brought against him. It was contended that in fact the FIR was dated 3 September 2011 which was a week after the appellant had left Pakistan.
6. The third ground alleges that the judge failed to address freedom of religious expression consistently with **HJ (Iran)** [2010] UKSC 31, and the fourth ground contends that the judge failed to address freedom of

religious expression consistently with **HJ(Iran)** in respect of the appellant's attitude to his religious faith.

7. I am grateful to the submissions I had from both parties. Mr Tarlow for the respondent indicated, having heard Mr Fripp's submissions, that he did not resist the application for permission.
8. I have concluded that the judge did materially err in law. In relation to the first ground it is plain that the judge made no reference whatsoever to the evidence of Mr Joseph Francis, somebody who has been referred to by the Home Office CIPN Report. Albeit hearsay, it was relevant evidence that the judge was required to consider as to whether or not the appellant and his family had experienced difficulties at the hands of extremists in Pakistan by virtue of his Christian teaching.
9. It was also an error of the judge not to have considered the precise contents of the other letters that were before him, in particular from the Reverend Canon Younis of The Parish of St Philip. At paragraph 58 the judge said that this letter referred to the appellant being a member of the church since 2016 and went on to state that the respondent had already accepted that the appellant is a Christian, the implication being that there was nothing further to be gained from the contents of this letter. In fact, this letter identified the appellant as an active Christian, a very committed member of the church and someone who "is also actively involved in street evangelism through discussion and leafleting ...".
10. The second ground alleges that the judge made a material error in relation to the chronology of events in respect of the fatwas and the FIR that was said to have been taken out against the appellant. I do not consider that ground 2 as such identifies an error of law since it is not clear overall that the judge misunderstood that the appellant departed Pakistan as a result of the actions of the extremists. That said, the judge's reason for rejecting the evidence of the FIR is questionable. At paragraph 52 the judge said that despite claiming that there was a fatwa against him following the FIR the appellant was nevertheless able to leave Pakistan via the normal channels without being apprehended. The judge said that "I find that this would not be so if he had been charged with blasphemy as opposed to an allegation simply being made against him. I therefore place no weight on the FIR dated 2 July 2011 as a result of my findings on the credibility of the appellant's account".
11. Leaving aside that this last sentence appears to wrongly compartmentalise the FIR evidence from the other evidence, both of which were relevant to the issue of credibility, the judge's assertion is not supported by any of the Country of Origin Information that was before him. In the context of fatwas by local clerics and FIRs relating to blasphemy, there was no evidence that the authorities in Pakistan who conduct airport controls would apprehend a person who faced such charges.

12. Given my findings in relation to ground 1 and ground 2, it is not necessary for me to address grounds 3 and 4 in any detail. They are premised on the judge having been found wanting in the findings of fact made that the appellant had not had charges or fatwas brought against him and had not been evangelical and proselytising in Pakistan. Given that the difficulties with the judge's primary findings of fact are what have led me to find a material error of law it is unnecessary for me to reach a view on these, save to say that on their face I am not persuaded that they establish any further error on the part of the judge.
13. For the above reasons I conclude that the judge materially erred in law and the judge's decision must be set aside.
14. Given that the challenge in the grounds relates primarily to the judge's adverse credibility findings, I see no alternative to remitting the case to the First-tier Tribunal, not before Judge Manyarara.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 2 February 2019



Dr H H Storey
Judge of the Upper Tribunal