



**Upper Tribunal  
(Immigration and Asylum Chamber)  
AA/06772/2015**

Appeal Number:

**THE IMMIGRATION ACTS**

**Heard at Field House  
Reasons Promulgated  
On 11 December 2015  
December 2015**

**Decision and  
On 22**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE KAMARA**

**Between**

**MR MS  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr A Chohan, counsel, Marks & Marks Solicitors  
For the Respondent: Mr S Walker, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision of FTTJ Carlin, promulgated on 6 August 2015.
2. Permission to appeal was granted on 7 September 2015 by FTTJ Keane.

## Background

3. The appellant made two unsuccessful applications for United Kingdom family visit visas in 2007 and 2009. His appeal against the latter decision was successful and he left Pakistan for the United Kingdom on 8 August 2010. The appellant remained in the United Kingdom after his visa expired on 1 January 2011. On 24 August 2012 he was encountered by immigration enforcement officers, whereupon he was served with a notice of liability to removal as an overstayer. The appellant applied for asylum on 12 September 2012.
4. The basis of the appellant's asylum claim is that he was a journalist who was an editor of a weekly newspaper and monthly magazine in Pakistan which published articles he wrote under a pen-name regarding Pakistani-Israeli relations. In addition, the appellant belonged to an association, which supported cordial relations between the said countries. The appellant believes that his activities resulted in an attack on the newspaper's offices, which caused him to go into hiding from 2006 onwards. The appellant's family home was attacked and a number of threats made, including against his wife and child.
5. During the course of the hearing before the First-tier Tribunal, the appellant unsuccessfully sought an adjournment in order to obtain a supporting letter from a contact in Pakistan who could confirm aspects of his account. The FTTJ accepted that the appellant had written two articles in 2006, which promoted Pakistani-Israeli unity. That acceptance was based on the opinion of the appellant's witness, who gave oral evidence at the hearing. The FTTJ rejected the remainder of the appellant's account, finding it, variously, vague, implausible and inconsistent. The appellant's delay in applying for asylum also adversely affected the credibility of his claim.

## Error of law

6. Permission to appeal was sought on the basis that it was arguable that, given he accepted that the appellant had written two articles in 2006 which promoted Pakistani-Israeli unity, the FTTJ's reasons were inadequate and he reached findings, which were not open to him on the evidence. It was argued that the FTTJ had failed to consider the appellant's explanation regarding a matter the FTTJ considered to be implausible. Furthermore, there was said to be no inconsistency as to when the appellant's family left Jhelum and in any event this issue had not been put to the appellant at the hearing.
7. The FTTJ granting permission considered that the grounds showed an arguable error of law but for which the outcome of the appeal might have been different. He stated that the FTTJ's findings were arguably irrational "*if the appellant was acknowledged to be the author of articles which inflamed Muslim opinion,*" then it was "*arguable that he would be exposed to a risk of persecutory harm.*"
8. The Secretary of State's response of 8 October 2015 stated that the respondent opposed the appeal as it was considered that the FTTJ appropriately directed himself. In the alternative, reliance was placed on Rule 24(3)(f), in that the respondent considered that the FTTJ, in relying entirely on the evidence of the appellant's friend, gave inadequate reasons for accepting that the appellant was the author of the articles relied on. Reference was also made to a note made by the presenting officer at the hearing, which questioned the value of the witness' evidence.

### The hearing

9. Mr Chohan adopted the grounds and argued that it was irrational for the FTTJ to dismiss the appeal as he had accepted that the appellant had written the articles. He stated that the appellant had a future intention to repeat such views and had said as much at [10] of his witness statement. In response to my query as to whether the FTTJ had accepted that the appellant was an editor of the publications in question, Mr Chohan referred me to an extract from the newspaper which showed that one of the five editors had a name similar, but not identical, to that of the appellant. He also referred me to a number of translations of articles, none of which contained an interpreter's certification. Mr Chohan was unable to refer me to any documentary evidence to support the appellant's claim that there was an attack on the premises of the newspaper. With regard to the appellant's claim that he was the only editor singled out, Mr Chohan explained that the appellant was known as a local reporter. He argued that the reasons were not open to the FTTJ. In response to the Rule 24 letter, Mr Chohan submitted that the appellant was known to be a journalist to the public at large throughout Pakistan. He suggested that the chief editor of the publication might have been able to confirm that the premises were attacked. At this point, I reminded Mr Chohan that the application had not included a ground regarding the FTTJ's decision to refuse to adjourn the appeal.
10. Mr Walker argued that the FTTJ made clear credibility findings, in addition to noting the two- year delay in the appellant claiming asylum. That claim had only been made after the appellant had come to the attention of the Secretary of State. He referred to the note of the presenting officer before the FTTJ, who had recorded that the witness only knew what the appellant had told him. Mr Walker submitted that the FTTJ made clear findings on the evidence before him and found the appellant not to be credible. In the alternative, Mr Walker argued that the appellant could relocate in the same way as proselytising Christians could.
11. In response, Mr Chohan stressed that the appellant, as a published journalist, would be known throughout Pakistan to those who were literate. He would be seen as one corrupting Muslims.
12. I decided to uphold the decision of the FTTJ as I found he was entitled to conclude that the appellant's account was not credible. The FTTJ's alternative findings, that the appellant could internally relocate, as he claimed to have done for an extensive period of time, were sound.
13. Permission to appeal was granted on the basis that had the FTTJ found that the appellant was "*the author of articles which inflamed Muslim opinion it was at least arguable that he would be exposed to a risk of persecutory harm.*" The positive findings of the FTTJ did not go that far. At [10] he said "*I was satisfied to the appropriate standard as set out in paragraph 7 above that the appellant had written the two articles in around 2006 promoting Pakistan-Israel and Muslim-Jewish unity. In coming to this conclusion, I was influenced by the comments of the appellant's witness...*"
14. Furthermore at [23], the FTTJ acknowledged as follows; "*anybody promoting relations between the states of Pakistan and Israel may be a target for retribution.*" Nonetheless, the FTTJ considered that the appellant had not shown that he had in fact been the target of retribution or would be should he return to Pakistan.

15. The Rule 24 response raises the suggestion that the appellant "*deliberately cultivated*" views before the witness in order to obtain support for his asylum claim.
16. What that witness said, at [3] of his own statement (to which the FTTJ referred) was as follows;

"I first met (MS) in 2013. He lives in Edgware which is a 2-3 miles from where I live. I was introduced to him by my nephew. We had common ground in that we were both writers. I invited him to my house, and we have become close friends since then. He showed me his work in Pakistan, particularly his article promoting Pakistan-Israel and Muslim-Jewish unity. I was inspired by his work, particularly owing to his courage in taking such a stance in Pakistan and promoting this unity. His ideas were similar to those I have always sought to propagate, in that humanity ought to be the overriding consideration. I am fully aware of the issues he has faced in Pakistan as a result of his articles, and it is for this reason he seeks protection in the UK."

17. It is apparent from the above paragraph that the witness had no independent knowledge of the events the appellant claims took place in Pakistan, given that they first met after the appellant arrived in the United Kingdom. What swayed the FTTJ to make the favourable findings was that the views the appellant expressed to the witness were consistent with the views expressed in the articles. While the respondent argues that the appellant may have deliberately cultivated this friendship, this issue does not appear to have been put to the appellant or witness for comment during the hearing. Therefore, while the FTTJ's acceptance that the appellant wrote the two articles in question appears somewhat generous given the difficulties with the remainder of the appellant's case, I accept that it was a finding he was entitled to make.
18. However, the FTTJ did not make a positive finding that the appellant was the editor of the publications in question. As indicated above, the appellant's name, as stated in his passport, does not appear on that publication among the list of newspaper staff. There was no evidence before me linking the appellant to the identity of the editor. Furthermore, even if the appellant's articles were published, by his own account, his name did not appear on the articles and there was no credible evidence before the FTTJ to indicate that the appellant had been linked to the articles. Indeed, there was no documentary evidence to support the appellant's claim that the premises had been attacked by protestors. Nor did Mr Chohan refer me to any evidence to support his submission that the appellant was known throughout Pakistan as a journalist.
19. Mr Chohan's submissions did not seek to challenge the many reasons provided by the FTTJ for rejecting the remainder of the appellant's claim. The FTTJ noted that the appellant could not state when he wrote the articles or when the offices were attacked. Given that these claimed events were said to have forced the appellant and his family to go into hiding, I find that the FTTJ did not err in placing weight on the vagueness of the appellant's account.
20. The FTTJ also considered it implausible that the appellant would remain living with his family at the same location if his life were in danger, particularly when it

became apparent that there was no police protection available to him. In addition, the FTTJ considered the appellant's claim that the chief editor of the publication was never targeted to be implausible. Mr Chohan argued that only the appellant was attacked because he was well known locally. I was referred to no evidence to show that the appellant had a high profile at a local level. In any event, this explanation was considered by the FTTJ and rejected for sound reasons at [17] of the decision.

21. The FTTJ did not err in concluding that the appellant had provided an inconsistent account as to the whereabouts of his family. It is apparent from a reading of the asylum interview record that the appellant was unable to provide a coherent and consistent account of when and why his family relocated from Jhelum to Karachi.
22. The FTTJ noted that the appellant lived in the United Kingdom for approximately two years, most of which as an overstayer, prior to making an asylum application. He further noted that the appellant delayed making an application until after he was notified of his liability to removal. The FTTJ considered and rightly rejected the appellant's explanation for the delay, which was that he hoped to avoid being removed to Pakistan earlier. The FTTJ considered that this showed a lack of confidence in the strength of the appellant's claim. Consequently, the FTTJ was entitled to conclude that the appellant's claim for asylum was damaged by its timing.
23. In conclusion, the FTTJ fully accepted that there could be a risk to those seen as promoting relations between the states of Pakistan and Israel, but did not accept that the appellant had been targeted for this reason for a series of adequate reasons set out between [11] to [23] of the decision and reasons.
24. No anonymity direction was made by the FTTJ, albeit it was at the case management hearing stage. I consider it appropriate that this be continued and therefore make the following anonymity direction:

*"Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. "*

## **Conclusions**

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

I uphold the decision of the FTTJ.

Signed

Date: 13 December 2015

Deputy Upper Tribunal Judge Kamara

