



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

Appeal Number: PA/10592/2018

**THE IMMIGRATION ACTS**

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

**Decision & Reasons  
Promulgated  
On 02 April 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HILL QC**

**Between**

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

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms P Solanki, Counsel instructed by Sky Solicitors  
For the Respondent: Miss S Cunha, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal from the decision of First-tier Tribunal Judge Watson, promulgated on 20 November 2018. The appellant is a citizen of Pakistan, born on 6 August 1987 who entered the United Kingdom on a Tier 4 student visa in May 2011. His application for asylum was lodged in

February 2018 and was refused in August 2018. His appeal to the First-tier Tribunal was dismissed on asylum grounds, on protection grounds and under the Human Rights Act 1998.

2. The case advanced by the appellant was that he was the son of an Ahmadi mother and although his parents had separated (and he was brought up in a family unit comprising father, stepmother and half-siblings), he was nonetheless the son of an Ahmadi mother and regarded, or likely to be so regarded, and as a consequence he would be at risk on return to Pakistan.
3. The grounds of appeal in this matter were narrowly drawn and three specific items were raised by Miss Solanki of Counsel who appears for the appellant.
4. Although permission was granted on all of the grounds, it was self-evident from the way permission was phrased that Ground 1 was of greatest significance. That ground alleged that the judge had failed to take account of key documentary evidence. In particular, paragraph 20 is said to be self-evidently incorrect when the judge asserts: "There is no other documentary evidence that supports [the appellant's] claim that FT is his mother and is an Ahmadi".
5. It is the appellant's case that there was a clear photocopy of the mother's Pakistani passport reproduced at pages 69 and 70 of the appellant's bundle. It unambiguously states that the appellant's mother is Ahmadi. There was no suggestion that this document was fraudulent or inaccurate. It is therefore surprising, to say the least, that it is not referred to at all by the judge whether in paragraph 20 (part of which I have already above), or elsewhere in the decision. On any account that is a significant omission.
6. Miss Cunha, for the Secretary of State, resists the appeal on the basis that although this was an error by the judge, it was not in any way dispositive of the appeal because the key issue to be determined was the extent to which the appellant would be at risk on return to Pakistan in consequence of the perception that he was of Ahmadi matrilineal descent. Miss Cunha makes the point that the appellant was brought up in a household with his stepmother so the fact that his actual mother was Ahmadi would not have been readily apparent.
7. I cannot accept Miss Cunha's submission. The issue of whether or not the appellant's mother was Ahmadi was key, and for the judge to have ignored a crucial and arguably determinative piece of evidence suggests at best a want of care by the judge's part in reaching the conclusions which she did. I cannot be confident that the judge gave anxious scrutiny to the issues under consideration, if something as obvious as the mother's passport was overlooked.
8. In any event, the judge's failure to recall that the mother's passport was in evidence (and contained a strong indication that she was Ahmadi) led her

to reject the appellant's primary case that he is the son of an Ahmadi mother. I cannot be confident that this implicit adverse credibility finding did not infect subsequent parts of the decision.

9. The judge's error in not taking into account what purported to be the mother's passport, and the inference on what was officially recorded in it is not something which can be viewed in isolation. It was a highly material feature, and fundamental to the determination and disposal of the appeal.
10. In the light of this material error of law, I allow the appeal. The error goes to the heart of the determination and the process of the appeal must begin again. I therefore remit the matter to the First-tier Tribunal to be heard afresh by a judge other than Judge Watson.

### **Notice of Decision**

- (1) The appeal is allowed and the decision of the First-tier Tribunal is set aside;
- (2) The appeal is remitted to the First-tier Tribunal to be heard afresh by a judge other than Judge Watson.
- (3) No findings of fact are preserved.
- (4) Anonymity direction.

### **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 his 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 *Mark Hill*  
March 2019

Date 27

Deputy Upper Tribunal Judge Hill QC