



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

Appeal Number: IA/00660/2021

THE IMMIGRATION ACTS

**Heard at George House,
Edinburgh
on 9 February 2022**

**Decision and Reasons
promulgated
On 16 March 2022**

Before

UT JUDGE MACLEMAN & DEPUTY UT JUDGE FARRELLY

Between

H A R

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge Kempton dismissed the appellant's appeal by a decision dated 14 July 2021.
2. On 30 September 2021, the appellant was granted permission to appeal to the UT on the 6 grounds set out in his application.
3. Mr Martin took grounds 1, 2 and 5 together .
4. Ground 1 relates to a report by Dr Niaz Shah. The FtT agreed at [34] with the respondent that there was "no evidence that the expert is an expert in

the field of document examination, which is a specialist field of expertise". The ground says this is an error because in refusing the appellant's asylum application on 6 August 2013, the respondent cited *KA & Others Pakistan CG [2010] UKUT 216*, in which "the UT clearly finds that Dr Shah is an expert in the field".

5. Ground 2 says that the expert's findings were "in no way contradictory" because she accepted that she could not give "a definitive answer" about the documents; and there being no expectation of a definitive answer in an asylum case, the expert's view that the documents were likely to be genuine "should have been given significant weight".
6. Ground 5 says that it was wrong to find that the appellant was not of adverse interest to the authorities because FIRs against him would have prevented his exit, in light of the report, and that the appellant "advanced a coherent and credible claim ... supported by independent and objectively reliable evidence".
7. We are not persuaded that any of the grounds about the report disclose error. The distinction between a legal and country expert and a forensic document examiner is valid and significant. Dr Sha did not purport to be (and was not thought by the UT in any other case to be) an expert in the latter category. Her opinion about the documents was accepted by the Judge, as far as it went; they were likely to be genuine, but that was her best view, based on their format and contents, not a definitive answer.
8. The Judge fell into no misconception about the report. The weight she gave it was well within her rational scope. We do not uphold grounds 1, 2 and 5.
9. Ground 4 is only disagreement, wrapped up with an assertion of "rendering corroboration an essential ingredient". We have been directed to no trace of such a fundamental misconception in the decision.
10. Ground 6 is directed against [34], where the Judge begins to set out further matters of credibility which concern her:

Firstly, the appellant has been in the UK for 10 years. He did not claim asylum on arrival, as he came as a student. He did not claim when his visa expired. He claimed more than two years later when he had no other means to remain in the UK.
11. That is said, rather vaguely, to err by reference to section 8 of the 2004 Act and to *AR [2017] CSIH 52*; but there is nothing in statute or case law which discloses error in [34]. The Judge's expression of concern based on delay is well within sensible restraint.
12. That leaves ground 3, which avers that it was perverse or irrational at [22] to say that the appellant had not produced evidence of his appointment as information secretary of the PPP in Glasgow when such evidence was in his bundle at pp 283 - 284.

13. The numbering in the bundle appears to be different from the grounds. At pp 250 - 251, there is a copy of a letter from the Secretary General of the PPP, UK, nominating "office bearers of the PPP - UK ... as follows [appellant's name] Information Secretary PPP Glasgow". His is the only name given. The second page is a list of 6 office bearers in Glasgow, ending with the appellant.
14. The Judge at [22] did overlook this item of evidence - or at least became confused about it, because the statement that there is no letter or email from the PPP in the UK is contradicted by the next sentence, "There is a letter from the British PPP branch, but not from the Pakistan HQ of the PPP."
15. The respondent says that the oversight is immaterial. Mr Martin said that it did matter, not only on the *sur place* claim, but because a correct view of that evidence might also have reflected on the credibility of claimed events in Pakistan.
16. This slip needs to be placed realistically in context. This was a belated and now well-aged claim which had failed in previous proceedings. Judge Kempton gave several reasons for her adverse findings, some of which are subject to no challenge. In respect of others, we have not found the challenges to be established. At [46] she said:

The overall background evidence on the PPP is that it is no longer a party of much influence in Pakistan and if party members are sought, it is on account of corruption and only high-profile members, unlike the appellant ...
17. There is no error in that general conclusion, so the FtT's decision may safely withstand excision of the minor slip at [22].
18. The decision of the FtT shall stand.
19. The FtT made an anonymity direction. It is doubtful whether there is any ongoing justification for one, but the matter was not addressed at the hearing. Anonymity is maintained at this stage.



9 February 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The

appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent" is that appearing on the covering letter or covering email.