



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/10601/2012

THE IMMIGRATION ACTS

Heard at Bradford
On 19th July 2013

Determination Sent
On 6th August 2013

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

RIZWAN-UL-HAQ VIRK

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Ahmed, instructed by Thompson & Company
For the Respondent: Mrs R Pettersen, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is the Appellant's appeal against the decision of Designated Judge Dearden made following a hearing at Bradford on 2nd January 2013.

Background

2. The Appellant is a citizen of Pakistan, born on 1st January 1968. He arrived in the UK on 22nd September 2012 and claimed asylum on the basis of his fear of persecution in Pakistan as an Ahmadi.
3. The judge accepted that the Appellant was an Ahmadi but did not find that the Appellant had given a credible account of having been attacked on two occasions in Pakistan. He was not satisfied that the Appellant had preached to persons there and concluded that he had chosen to practise his faith on a restricted basis because that was his desire rather than as a result of fear. As a consequence there would be no real risk of persecutory ill-treatment on return.

The Grounds of Application

4. The Appellant sought permission to appeal on the grounds that the judge had erred in his considerations of the Appellant's account of his difficulties in Pakistan. Specifically the judge had said that the Appellant's evidence was that he had been preaching for fifteen or twenty years without difficulty and that he appeared perfectly content with his position during that time. He did not accept that the problems in November 2011 and July 2012 had happened in the manner described. However the judge failed to take into account the objective evidence referred to in the skeleton argument, namely the significant evidence before the Tribunal in the country guidance case of MN & Others [2012] UKUT 00389 that the situation for Ahmadis had deteriorated significantly, and it was incumbent on the judge to consider this explanation for the Appellant's evidence.
5. Secondly, the judge found it implausible that in November 2011 the Appellant, who claimed to have received life threatening injuries was nevertheless able to hire a rickshaw and go to hospital. The judge had misread the Appellant's overall evidence and had not taken into account all of the evidence in the interview record, namely that the Appellant's own description of his injuries was that one finger and his right thumb had been broken and he was suffering from the mental shock of the attack rather than physical injuries. Moreover the judge said that the hospital would have provided documentary evidence but the Appellant's own case was that the hospital did not provide any letter.
6. Finally the Appellant provided an original newspaper which was significantly corroborative of his account but the judge rejected it as "anyone could have placed this advertisement" which was a clear application of the wrong standard of proof. The fact that a piece of evidence is found by itself not to be convincing cannot properly be treated as detracting from the Appellant's case per se.
7. Permission to appeal was given by Judge Baker on 1 February 2013.

Submissions

8. Mr Ahmed relied on his grounds and submitted that the judge had not reached his conclusions on the credibility of the Appellant in the context of the background evidence underlined in the country guidance case which showed a recent increase in attacks against Ahmadis. He should have put his findings in that context and there was no reason why the Appellant's account had not been accepted.
9. With respect the evidence of the attack in November 2011 the Appellant's evidence that he was in a life threatening situation was not a medical assessment from an expert but his own view. Moreover the judge appeared to be looking for corroboration which on the Appellant's evidence was simply not available.
10. Finally the judge had erred with respect to the documentary evidence which he had not taken into account in the light of the evidence as a whole as he was required to do. The judge had not given cogent reasons for his decision and his determination was inadequate.
11. Mrs Pettersen submitted that the judge had properly considered the case of MN and entitled to rely on the Appellant's own account of suffering life threatening injuries as a basis for concluding that his ability to hire a rickshaw was not credible. Neither was there any error in his treatment of the documentary evidence which in any event did not take the case any further.

Findings and Conclusions

12. This is a clear and careful determination in which all of the relevant issues were properly considered and the judge was entitled to reach the decision that he did for the reasons which he gave.
13. With respect to the first ground the judge stated that he assessed the Appellant's case against the country guidance case of MN and recorded the submission that the Appellant's evidence was entirely consistent with that case and with the COIS Report. The judge was entitled to say that the Appellant had been perfectly content with his position for fifteen or twenty years, and that he had been preaching during that period. It was open to him not to accept that the problems had occurred in 2011 and 2012 as described. Moreover that was not the only reason for finding the Appellant's account not to be credible. The judge said that the Appellant had been untruthful about the number of times when he had spoken about his religious beliefs and there is no challenge to his conclusions in the grounds. Nor is there any challenge to the judge's view that a committed Ahmadi would permit two of his three Pakistani passports to have stated his religion as Islam. Whilst the judge did not state in terms that, according to the evidence placed before the Tribunal in MN, the situation for Ahmadis had deteriorated recently, in the context of the determination as a whole, the omission is immaterial.

14. With respect to the judge's conclusions on the credibility of the claimed attack itself, he was simply relying on the Appellant's own evidence at interview. In answer to question 99 the Appellant said:

"I had wasted a lot of blood. I was nearly close to dying. There was a lot of bruises on my head. Because due to those injuries I was half conscious I couldn't drive the car. My intention was to get to hospital quickly so I hired a rickshaw."

15. It was put to him by the interviewing officer that the Appellant said that he was close to dying but the only treatment he received was bandage and cleaning. The Appellant said that his injuries were still there. He did not say that his injuries were not life threatening. The judge was perfectly entitled to find that the Appellant's account of his injuries was not consistent with his story.
16. There was no requirement for corroboration. In stating that it would have been possible to provide some documentary evidence bearing in mind that it was almost twelve months between the incident and the Appellant leaving Pakistan the judge is merely commenting that such evidence would have assisted the Appellant in discharging the burden of proof. The Appellant said that the hospital did not provide any letter but he did not say whether it would have been possible for him to request one.
17. Finally the judge's comment that the newspaper report was of limited probative value is unassailable. The newspaper simply states that the Appellant used to work as a manager of the insurance company and no longer has any relationship with it. It warns against persons making business with him in connection with the company. It would be entirely reasonable for the company to discourage any person from having a business relationship with a former employee.
18. This is a full and well-reasoned determination of the Appellant's case and the grounds disclose no error.

Decision

19. The judge's decision will stand. The Appellant's appeal is dismissed.

Signed

Date

Upper Tribunal Judge Taylor