



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

Appeal Number: HU/12254/2016

THE IMMIGRATION ACTS

Heard at Field House

On 12 February 2018

**Decision & Reasons
Promulgated**

On 21 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PEART

Between

**MR SHAHOOD BIN DAWOOD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Coleman, Counsel

For the Respondent: Mr Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan. He was born on 15 January 1988. He appealed against the respondent's refusal dated 28 April 2016 to refuse his application for leave to remain.
2. The appeal was dismissed by Judge Sweet (the judge) in a decision promulgated on 10 October 2017. The judge found there were no

significant obstacles to the appellant's return to Pakistan or that there were any exceptional or compelling circumstances as regards Article 8. The judge found the respondent's decision proportionate that he should return to Pakistan.

3. The grounds claim the judge erred. That was because the appellant is disabled. He is diagnosed with sensory and axonal neuropathy. The submission before the judge was that the appellant's disability could not be adequately treated in Pakistan and that the judge, particularly at [21], failed to engage with the extent of the appellant's claim in that regard. Further, whilst the grounds accepted that the *little weight* provision in s.117B applied, it was still possible for private life to outweigh the public interest in removal and that the judge erred in failing to properly recognise that at [22]. The judge failed to assess the *quantum of the weight* to be attached to the appellant's private life and consequently failed to properly prepare the scales such that he arguably erred. See **Kaur (Children's best interests/public interest interface) [2017] UKUT 00014 (IAC)**.
4. In a decision dated 10 November 2017, Judge Andrew granted permission to appeal. She said:

"I am satisfied there is an arguable error of law in this decision in that the judge did not give sufficient reasons as to how adequate treatment for the appellant's condition could be accessed in Pakistan. I am satisfied, however, that the judge has properly considered societal discrimination in Pakistan and, although his reasons given for his findings in this regard are brief, they are sufficient as are his findings in relation to Article 8."
5. The respondent filed a Rule 24 response on 21 December 2017. It was submitted that the judge had considered the appellant's medical condition, noting the lack of an updated medical report at [19]. It was clear from the judge's decision that he was aware that the appellant was currently obtaining rehabilitation with a possible operation at a later date. Whilst it was accepted that no specific findings were made as to whether the operation was available in Pakistan, the Rule 24 response submitted that it was quite clear the judge did not foresee any medical emergency or risk from the appellant returning to Pakistan.
6. It was trite law that whilst the treatment in the UK might be better, it was not a reason to grant leave under ECHR Regulations (paragraph 276ADE) or outside the Rules.
7. The appellant had family members in Pakistan, he had the condition before he came here and the Pakistan-based uncle paid for some of the appellant's schooling.
8. No Tribunal properly directing itself could find on those particular facts that were based on the appellant wearing a caliper and becoming tired upon exertion, that the UK taxpayer should fund his treatment or that the UK government had taken responsibility for his treatment.

Submissions on Error of Law

9. Mr Coleman adopted the grounds. He submitted that the issues were the appellant's access to treatment and level of treatment required. Whilst the judge had set out the medical evidence at [7]-[17] he had not engaged with the same in an adequate manner.
10. Mr Mills submitted that **Kaur** was of assistance in terms of what was expected of the judge and how he discharged his obligations in that regard. Given the limited resources of the NHS, the precariousness of the appellant's circumstances here and the lack of evidence provided by the appellant in terms of treatment he is receiving here that would not be available to him in Pakistan, the judge did not err.

Conclusion on Error of Law

11. The judge could only engage with the evidence put before him. The only evidence from the appellant's treating doctors in Pakistan was three handwritten paragraphs dated 23 January 2016 from Dr Akhtar which the judge referred to at [9] of his decision. The judge engaged with the reasons the appellant put forward as to why he should not be expected to return to Pakistan. He set them out at [17] of his decision.
12. The judge gave his reasons at [19]-[22]. I accept that the judge's reasons are brief. Nevertheless, I find the judge engaged with what he was asked to consider. Dr Akhtar had said that there was no cure for the appellant's condition and only limited rehabilitation could be offered in Pakistan but there was no evidence before the judge as to what that meant and the implications for the appellant. The judge engaged with the fact that the appellant was undergoing some form of rehabilitation and physiotherapy here. Surgery was a future option but there was no detail with which the judge could engage.
13. The judge took into account the appellant's family circumstances. His parents and siblings were living in Pakistan. The evidence before the judge was that he could not return to live with his family because they had financial difficulties and could not afford to look after him and care for him. The judge found at [21] that he could resume living with his family. The judge was entitled to find that there were no exceptional or compelling circumstances made out. He clearly engaged with the appellant's medical condition and the fact that rehabilitation in Pakistan did not appear to be as comprehensive as that offered here. See [19].
14. The judge engaged with s.117B. He found as regards Article 8 that his claim could not be made out because there were no exceptional or compelling circumstances. The judge took into account the appellant's precarious immigration status in terms of the balancing exercise although he did not say so in terms. The judge was entitled to find that there was no presumption that life as a lawful student here would lead to a protected private life claim under Article 8.

15. I conclude that the judge's decision does not contain a material error of law such that the decision should be set aside.

Notice of Decision

16. The decision of the First-tier Tribunal contains no error of law and shall stand.

No anonymity direction made.

Signed

Date 12 February 2018

Deputy Upper Tribunal Judge Peart