



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

Appeal Numbers: PA/11680/2016
PA/11659/2016

THE IMMIGRATION ACTS

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

**Decision & Reasons Promulgated
On 23 August 2019**

Before

**MR C. M. G. OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE MANDALIA**

Between

**YASIR [J]
NOSHEEN [J]**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr E. Fripp, instructed by Lester Dominic Solicitors.

For the Respondent: Mr T. Melvin, Senior Home Office Presenting Officer.

DECISION AND REMITTAL

1. The appellants are nationals of Pakistan and claim to have a well-founded fear of persecution on the ground of being Ahmadis. They are brother and sister and both have a considerable immigration history: their claims were first made in 2008. They were separately refused and separately appealed against the refusal. Each of them was unsuccessful and their appeal rights were exhausted in 2011. Further submissions were made and, following judicial review proceedings, decisions, still refusing the claims but carrying rights of appeal, were made on 28 September and 29

September 2016 respectively. The appellants appealed against those decisions. Their appeals were dismissed by Judge Beg in the First-tier Tribunal in a decision sent out on 13 May 2017. Applications for permission to appeal were refused by the First-tier Tribunal and the Upper Tribunal. The Upper Tribunal's refusals were challenged by judicial review. On 6 March 2019, whilst the judicial reviews were before the High Court, the Court of Appeal gave judgment WA (Pakistan) v SSHD [2019] EWCA Civ 302. The grounds of judicial review were amended, with permission; and Lieven J granted permission for judicial review. Following the usual Cart procedure, the Upper Tribunal's refusals of permission were quashed and, re-determining the applications, the Vice President granted permission.

2. Mr Fripp's submission to us was that these appeals were now so simple that they could be readily determined by the Upper Tribunal. Subsequent submissions, however, and his application to submit a considerable quantity of new evidence, suggested a level of complexity which his primary submission did not appear to recognise. Mr Bramble's submission was that, bearing in mind the fact that the appellants have not been regarded as credible in their previous appeals, it was very unlikely that a further Tribunal hearing would assist them.
3. WA (Pakistan) sets out in paragraph [16] the questions that a judge determining an Ahmadi appeal needs to ask. In that case, as in the present appeals, the questions posed by the Court of Appeal, the last in particular, have never been asked or answered. In WA (Pakistan) the Court of Appeal regarded it as axiomatic that the appeal would be returned to the First-tier Tribunal for re-determination: see the last sentence of paragraph [63].
4. In our judgment that is the appropriate disposal of these appeals also. Following the process set out in WA (Pakistan) will require new fact-finding, and new analysis of the facts found. The new material is likely to be so extensive that remittal is appropriate, quite apart from the clear guidance given by WA (Pakistan) itself.
5. The judgment of the First-tier Tribunal erred in law for failure to follow the procedure now set out in WA (Pakistan). We set aside the decision of Judge Beg. We direct the appellants' appeals be re-determined in the First-tier Tribunal.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 21 August 2019