



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

Appeal Number: PA/12479/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 29 May 2019**

**Decision & Reasons Promulgated
On 4 June 2019**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**ON
(ANONYMITY ORDER MADE)**

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Capel, Counsel

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

DECISION AND REASONS

1. The appellant is a citizen of Afghanistan born on 6 March 1986. He has been given permission to appeal against the decision of First-tier Tribunal Judge Cameron dismissing his appeal against the respondent's decision to refuse his asylum and human rights claim.

2. The appellant claims to have arrived in the United Kingdom on 19 March 2017. He claimed asylum on 3 April 2017. His claim was refused on 13 October 2018.

3. The appellant's asylum claim was made on the basis that he feared the Taliban in Afghanistan because of his previous work for Tolo Safi Construction Company (TSCC) and Mohammed Omaid Construction Company (MOCC) which led him to be associated with the American military forces and the international community. He claimed to have worked for TSCC from 2012, tasked with the project of building a computer science faculty at the university in Nangahar, and to have started work for MOCC prior to the completion of his contract with TSCC, in June 2013, building houses for the Afghan military base in Shindand District. He claimed that he stopped working for MOCC after receiving a threatening letter from the Taliban and that he recommenced working for TSCC in April 2014. He continued receiving threatening letters from the Taliban and so he fled Afghanistan in October 2015 and travelled to Italy. He returned to Afghanistan after a week as his father was angry with him for having left the country and told him to return to support his family and help look after his mother who was ill. He continued his employment with TSCC and then received a third threatening letter from the Taliban. On 10 August 2016 his wife called him and told him that their house had been burned down. He reported the incident to the police but they did not help him. He left Afghanistan again on 25 August 2016 and travelled to Iran where he stayed for six months before travelling to Turkey and then Bulgaria and he came to the UK clandestinely on 19 March 2017.

4. The respondent refused the appellant's claim, finding the evidence of his employment to be inconsistent and rejecting his claim to have worked for TSCC and MOCC. The respondent did not accept the appellant's account of threats from the Taliban and considered that he was at no risk on return to Afghanistan and that his removal would not breach his human rights.

5. The appellant appealed against that decision. His appeal was heard on 26 November 2018 before First-tier Tribunal Judge Cameron. Judge Cameron did not find the appellant to be a credible witness and found the documentary evidence relating to his claimed employment with TSCC to be unreliable. The judge did not accept that the appellant was targeted by the Taliban for working for MOCC or TSCC and did not accept that he had the relevant contracts with TSCC. He did not accept that the appellant was at risk in his home area or in Kabul if he were to relocate and he dismissed the appeal on all grounds in a decision promulgated on 8 January 2019.

6. The appellant sought permission to appeal on three grounds. Firstly, that the judge had failed to make a finding as to whether he had worked for MOCC which was a material error as it impacted on the assessment of risk on return in light of the evidence of the targeting of people perceived to support the international community. Secondly, that the judge, in considering internal relocation, had had regard to the 2016 UNCHR guidelines rather than the 2018 guidelines in which the UNHCR had changed its position on the availability of internal relocation to Kabul. Thirdly, the judge had failed to provide adequate reasons in relation to Article 15(c) of the Qualification Directive, given the evidence of the deterioration of the situation in Kabul.

7. Permission was refused in the First-tier Tribunal but subsequently granted in the Upper Tribunal on 9 April 2019 on the basis of the judge's findings about MOCC and his reliance on the previous UNHCR guidelines.

Appeal hearing and submissions

8. Ms Capel expanded upon the grounds of appeal, submitting that the failure by the judge to make a finding on the appellant's employment with MOCC was material since the evidence showed that simply having worked for an organisation such as MOCC was sufficient to demonstrate a risk of persecution. It could not be said that because the judge rejected the appellant's claim to have worked for TSCC it was inevitable that he would also have rejected his claim in regard to MOCC, particularly where there was expert evidence from Dr Giustozzi that MOCC existed and had an office in Kabul. Ms Capel referred to the UNHCR guidelines of 30 March 2018 and the risk profiles given at page B73 of the appellant's appeal bundle including those perceived to be supporting the international community. She submitted that the judge had erred at [90], when considering internal relocation to Kabul, by relying on the version of the UNHCR guidelines referred to in AS (Safety of Kabul) Afghanistan CG [2018] UKUT 118 when those were the old guidelines of 2016 which had since been updated by the 2018 guidelines. The 2018 guidelines at page B93 said that Kabul was not a safe or reasonable internal flight alternative, contrary to the earlier view of the UNHCR. Ms Capel submitted further that the Court of Appeal in AS (Afghanistan) v Secretary of State for the Home Department [2019] EWCA Civ 873 had remitted the case to the Upper Tribunal to reconsider the issue of internal relocation to Kabul. In regard to Article 15(c), Ms Capel submitted that there should be a departure from the country guidance in AK (Article 15(c)) Afghanistan CG [2012] UKUT 163 as the situation in Kabul had deteriorated and the judge failed to address that properly.

9. Mr Lindsay submitted that the judge had clearly rejected the credibility of the appellant's account as a whole and that it was unrealistic to argue that the judge may have found that the appellant worked for MOCC. In any event the fact that the appellant claimed to have had two years of no problems in Afghanistan after just one month's employment with MOCC showed that there was not sufficient to place him at risk. With regard to the second ground Mr Lindsay submitted that internal relocation was considered in the alternative but the judge found that the appellant was not at risk on his home area, so that his reliance on AS and the previous UNHCR guidelines was immaterial. As for ground three and Article 15(c), Mr Lindsay submitted that AK remained the relevant country guidance and the judge was entitled simply to rely upon the guidance. The judge had regard to all the evidence and was entitled to conclude as he did.

10. Ms Capel reiterated the points previously made in response.

Discussion and conclusions

11. I find no merit in the first ground of appeal in relation to the appellant's claimed employment with MOCC. Although the judge did not make a specific finding rejecting the appellant's claim to have worked for MOCC it is clear that he did not find any of the claim to be credible. The judge's findings focussed on the appellant's claimed employment with TSCC because there was documentary evidence relied upon by the appellant in that regard which he had to consider. The judge found numerous inconsistencies in that evidence which led him to conclude that the evidence was unreliable and that the appellant had never worked for that company. The judge was fully aware that the respondent did not accept that the appellant had worked for either company, as observed at [23]. At [6] he referred to the evidence not supporting the appellant's claim to have worked for TSCC and MOCC in 2013 and at [62] he noted contradictory evidence in regard to his claim to have worked for MOCC and TSCC in the same period of time. At [71] he rejected the appellant's claim to have been targeted by the Taliban for working for MOCC or TSCC. In the light of those adverse findings, and considering also that the appellant had not produced any supporting evidence of his claimed employment with MOCC, it is clear that the judge did not accept the appellant's account of his work for that company. I also agree with Mr Lindsay that even if the judge had accepted that employment, the appellant's claim was that he had worked for MOCC for only a month, and considering that the judge found that he had had no problems as a result of his employment in the two years prior to his departure from Afghanistan, there was clearly insufficient evidence to conclude that he was ever perceived to be supporting the international community or was ever at risk on that basis.

12. With regard to the second ground, Mr Lindsay correctly pointed out that the judge did not find that the appellant was at risk in his home area of Laghman province. His findings on internal relocation to Kabul were in the alternative. Accordingly the challenge on the basis of the judge's reliance on the UNHCR's guidelines in relation to internal relocation to Kabul is immaterial. In any event, and in regard to the grounds relating to Article 15(c) and indiscriminate violence, the judge was entitled to rely upon the country guidance in AK and was not required to give detailed reasons for so doing. He plainly gave detailed consideration to the background country information and to the claim in regard to the deterioration in the security situation and was entitled to conclude that there was insufficient evidence to depart from the country guidance.

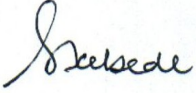
13. For all of these reasons it seems to me that the judge was perfectly entitled to reach the conclusions that he did on risk on return to Afghanistan and that he did so upon a careful and detailed assessment of all the relevant evidence. On the evidence available to him he was fully entitled to dismiss the appeal on the basis that he did and he did not make any errors of law in doing so.

DECISION

14. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Anonymity

The First-tier Tribunal made an order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed 
Upper Tribunal Judge Kebede

Dated: 30 May 2019