



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

Appeal Numbers: UI-2022-000193
PA/51227/2021; [IA/03269/2021]

THE IMMIGRATION ACTS

**Heard at Field House
On 16th September 2022**

**Decision & Reasons Promulgated
On 2nd November 2022**

Before

**UPPER TRIBUNAL JUDGE RIMINGTON
DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**SR
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr Khan instructed by Thompson Solicitors

For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

DECISION AND REASONS

1. In a decision promulgated on 19th January 2022 First-tier Tribunal Judge Phull (“the judge”) dismissed the appellant’s appeal against the Secretary of State’s decision dated 10th March 2021 to refuse his asylum, humanitarian protection and human rights claim.
2. The appellant is a citizen of Pakistan and was born on 2nd August 1983. He claimed to have arrived in the United Kingdom on 15th December 2004

from Pakistan using a false passport with a 6 month visit visa. He claimed asylum 14 years later on 8th May 2018.

3. The appellant asserted a fear of persecution in Pakistan from the authorities. He stated he joined the Pakistan Muslim League Q (PMLQ) in 2003 after leaving school at the age of 19 or 20 years and was elected a member and then President of the youth wing. He had problems with members of the governing Pakistani Muslim League Noon (PMLN) in February 2003 when he was attacked. In December 2003 he was attacked and beaten and attacked and fired on outside Zahur Palace. He maintained that the PMLN had an adverse interest in him and he stayed in different places until he left in December 2004. He stayed with his father's friend in the UK who supported him until 2017/2018 when he died. He continued to support the PMLQ party in the UK. Should he return to Pakistan he feared being killed by the PMLN party for his membership of the PMLQ.
4. The judge made adverse credibility findings against the appellant and disbelieved the evidence submitted on his behalf.
5. The appellant's challenge to the judge's decision was made on the following grounds.
 - (i) The judge failed to give legally adequate reasons why it was not accepted that the appellant was a member of the political group as claimed by him.
 - (ii) The judge failed to give appropriate weight to the evidence of the appellant's political engagement in Pakistan as well as evidence of the FIRs taken against him by his persecutors
 - (iii) The judge erred in dismissing the appellant's claim to a lapse in memory occasioned by the passage of time as well as the appellant having suffered from Covid 19 the effects of which were significant and varied and possibly a 'grey area simply because there was no corroboration'. The judge arguably did not apply the anxious scrutiny required.
 - (iv) The judge erred in relying without more on the CIPN report in concluding that there were no reports of persecution of oppositionist groups in Pakistan. The objective evidence from the World Report 2021 Pakistan Human Rights Watch lists numerous violations of civic and political rights, including specifically attacks on political opposition. The judge's conclusions were not supported by background information.
6. The hearing was subject to two adjournments first because there was no interpreter when the appellant attended in person and secondly owing to the failure of the solicitors to receive the notice of hearing. In the interests

of fairness the matter had been adjourned twice to ensure the participation of either the appellant or his representative.

7. At the hearing before us Mr Khan relied on his written submissions but placed special emphasis on the last two grounds. The appellant had experienced a loss of memory but the judge had merely rejected the claim in the light of inconsistencies but the judge not entitled to do so without engagement with the claim. Mr Khan accepted there was no medical evidence as to Covid but advanced that the judge was still required to discuss the impact on the evidence. The judge had failed, when considering the political affiliations and conflict to look at the evidence without considering the background situation in particular the CPIN at paragraph 2.4.7. There was widespread political intolerance in Pakistan and the judge failed to consider the background political context.
8. Mr Whitwell noted that only grounds (iii) and (iv) were relied upon. The appellant's health had been addressed at [29] of the decision. The judge gave reasons for rejecting the self-diagnosed condition. We were invited to consider the witness statement of the appellant who did not reference at [13] that his memory was affected by Covid.
9. The judge had engaged with the background evidence and quoted from a number of sources. The judge did consider the CPIN at [27] and quoted from a number of sources including the USAID report and it was factually correct to state that there was no evidence of conflict in the factions of the Muslim League. This challenge had the hallmarks of a disagreement and it was clear that this argument on political conflict was not at the forefront of the appellant's submissions before the judge. The evidence had to be hunted for and essentially the judge favoured the USSD report

Analysis

10. We take ground (iii) first because it is axiomatic. The judge at [23] acknowledged that the appellant maintained that he had been affected by Covid but found, having reviewed the evidence that the oral and documentary evidence was inconsistent with the appellant's asylum interview dated 16th November 2020, in which the appellant confirmed at the start and the close that he was fit and well. For example, the newspaper article and the FIR contrasted with the appellant's asylum interview evidence, [25] and [26]. Moreover, at [29] the judge found the appellant had

'not provided a satisfactory explanation for the inconsistencies in his evidence other than claiming issues with his memory, which I find unsupported by any medical evidence'.

11. The judge did not accept the assertion that the appellant had suffered with Covid owing to the lack of medical evidence. Further, as Mr Whitwell pointed out, in the appellant's own witness statement at [13], the appellant himself did not claim to have had his memory affected when

alluding to his infection with Covid that '*he nearly died*', merely that he had been mentally affected. If he had been so ill it was reasonable for the judge to expect that medical evidence could be but was not produced; nor was it produced before the Upper Tribunal.

12. Nor is the failure to consider the passage of time a sustainable challenge. There were discrepancies found between the newspaper article provided and the appellant's asylum interview [25]. Additionally at [26] although the appellant relied on a police FIR dated 27th December 2003 in relation to the appellant's attendance at a protest, that contrasted with the extensive external searches by the respondent which did not reveal any details of a rally or protest at the Tayur Palace Gujarat at that time.
13. It seems to have escaped the judge's attention that the newspaper article referred to a protest at the Zayur Palace on 23rd December 2013 when the appellant was not even in the country. That, however, was not a point, to the appellants advantage taken by the judge.
14. Turning to ground (i), at [22] the judge rejected the appellant's claimed PML membership card noting that it did not state whether it was a PMLN or PMLQ. Further the appellant's date of birth given on the card was inconsistent with his own evidence as to his date of birth and thus the judge attached little weight to the card to support his claim to be a member of the PMLQ. The judge found the appellant's account inconsistent about his membership and role [23]. Those findings were adequately reasoned as to why the judge did not accept the appellant was a member of the party he claimed.
15. Mere disagreement about the weight to be accorded to the evidence, which is a matter for the judge, should not be characterised as an error of law, Herrera v SSHD [2018] EWCA Civ 412. The judge addressed the FIR in relation to the protest at [26] but noted first, that the Secretary of State could not, as recorded above identify any rally at that time but further found at [26] that the appellant in his interview dated 16th November 2020 could not even remember what he was protesting about and failed to provide any further details. It was open to the judge to take the approach she did to the documentary evidence and to afford the weight that she did to the appellant's evidence. In view of the findings in relation to the appellant's claims on the effects of Covid, the judge was entitled to take this into account.
16. The judge, therefore, for sound reasons rejected the assertion that the appellant was a member of the PMLQ and the findings in relation to the country background evidence are not material or germane.
17. That said, in relation to ground (iv) the judge specifically referred at [27] to the country material referring to the Pakistan-Political parties and affiliation-CPIN v 10 (December 2020) and the US Department of State's Country Report in Human Rights Practices for 2019. It was factually correct that the USSD report did not refer to issues between the members

of the political parties of the PMLQ and PMLN. The CPIN referred to politically motivated violence but not with reference to the PMLQ in contest with the PMLN. Indeed the appellant's bundle included material which demonstrated members from the PMLQ joining the PMLN. The judge was entitled to prefer the report of the USSD to that of other reports.

18. Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge, Shizad (sufficiency of reasons: set aside) [2013] UKUT 00085 (IAC). The judge adequately completed this task and a mere re-working of the decision owing to disagreement is not open to us.
19. We find no arguable error of law in the decision and the decision will stand.

Notice of Decision

The First-tier Tribunal decision will stand.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Helen Rimington

Date 16th September 2022

Upper Tribunal Judge Rimington