



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

**Case No: UI-2024-003143**  
**On appeal from:**  
**PA/59507/2023**  
**LP/01172/2024**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 08 October 2024**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**H S B**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Maud Foxley of Counsel, instructed by Richmond Chambers

LLP

For the Respondent: Mr Andrew McVeety, a Senior Home Office Presenting Officer

**Heard at Field House on 30 September 2024**

**Order Regarding Anonymity**

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant has been granted anonymity, and is to be referred to in these proceedings by the initials H S B. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant.

**Failure to comply with this order could amount to a contempt of court.**

## **DECISION AND REASONS**

### **Introduction**

1. The appellant challenges the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 16 October 2023 to refuse him international protection pursuant to the Refugee Convention or leave to remain on human rights grounds. He is a citizen of Pakistan.
2. **Mode of hearing.** The hearing today took place as a blended face to face and Microsoft Teams hearing. Mr McVeety for the Home Office appeared by CVP with all other participants in the hearing room. There were no technical difficulties. I am satisfied the hearing was completed fairly, with the cooperation of both representatives.
3. For the reasons set out in this decision, I have come to the conclusion that the appellant's appeal must be allowed and reheard afresh in the First-tier Tribunal.

### **Procedural matters**

4. **Vulnerable appellant.** The appellant is a vulnerable person with mental health issues. He is entitled to be treated appropriately, in accordance with the Joint Presidential Guidance No 2 of 2010: Child, Vulnerable Adult and Sensitive Appellant Guidance. No adjustments were required in the hearing before me as the appellant did not give evidence.

### **Background**

5. The main basis of the appellant's case is that he has suffered past persecution, having been attacked twice in August 2018 in Pakistan by gunmen, and that he fears a member of Jamaat-ud-Dawah (JUD), a religious organisation, who owed the appellant money for the purchase of a printing machine from his business, and whom he had pursued for settlement of his debt.
6. On the appellant's account, opposition to JUD's ideology would lead to a person being considered a non-Muslim and the police were unable and/or unwilling to protect him as they also feared JUD.
7. The respondent considered the appellant's account of his circumstances to be inconsistent and lacking in credibility. He had remained in his home for two weeks without further incidents, before coming to the UK.
8. Even if there was a risk on return, the respondent considered that the appellant had available state protection, alternatively that he could relocate to Islamabad, Multan or Karachi where he would be safe.

9. The respondent also relied on section 8 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004, as the appellant had arrived in the UK on 5 September 2018, but did not claim asylum until 26 November 2018, without providing an explanation for the delay of almost three months. However, the refusal letter also records that it took time to stabilise the appellant's mental health before he could make the claim.
10. The appellant appealed to the First-tier Tribunal.

### **First-tier Tribunal decision**

11. The appellant produced evidence to the First-tier Tribunal of the attacks and his injuries. They had been widely reported on Pakistani news channels. His mother, sister and two brothers, as well as the appellant's son, gave evidence. His father and another brother remain in Pakistan.
12. The appellant sought to rely on closed circuit television footage of the two attacks but was able only to produce stills of the filmed events because there was not a suitable player for the video evidence.
13. First-tier Judge Fox recognised that credibility was the central issue. As regards section 8, it appears that the Judge gave the appellant the benefit of the doubt. However, he rejected the evidence of the appellant's family members, and also psychiatric evidence from Dr Andrew Shepherd, BM BCh PhD MRCPsych, which is set out at some length in the decision, and country expert evidence from Dr Owen Bennett-Jones BSc(Economic) MPhil (Politics) PhD, as to the risk from JUD across Pakistan.
14. The First-tier Judge found that the appellant had failed to demonstrate either a subjective or objective fear of harm on return. He dismissed the appeal. The appellant appealed to the Upper Tribunal.

### **Permission to appeal**

15. Permission to appeal to the Upper Tribunal was granted by First-tier Judge Saffer in the following terms:

“It is arguable that the Judge may have materially erred regarding the assessment of the psychiatric evidence and how that may have impacted on the Appellant's ability to give consistent evidence, and also regarding the video evidence. Whilst the rest of the excessively lengthy grounds appear to add little and appear to me to amount to little more than disagreements with findings the Judge was entitled to make, I do not limit the grant and all grounds may be argued.”

### **Rule 24 Reply**

16. There was no Rule 24 Reply on behalf of the respondent. Unusually, the appellant filed a document described as a Rule 25 Reply, but which is principally a rule 15(2A) application to adduce the closed circuit television

footage. Mr McVeety for the respondent had viewed the footage before the hearing.

17. That is the basis on which this appeal came before the Upper Tribunal.

### **Upper Tribunal hearing**

18. The oral and written submissions at the hearing are a matter of record and need not be set out in full here. I had access to all of the documents before the First-tier Tribunal and the appellant sought to make available the closed circuit television footage.

19. For the respondent, Mr McVeety, having seen the footage, accepted that the very serious attacks on which the appellant has always relied occurred as stated. He further accepted that this amounted to an error of fact at the level of an error of law and that the appeal should be remitted to the First-tier Tribunal for remaking on that basis.

20. I agree. The decision of the First-tier Judge is set aside and will be remade in the First-tier Tribunal on a date to be fixed.

### **Notice of Decision**

21. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal.

**Judith Gleeson**  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Dated: 7 October 2024**