



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

Case No: UI-2024-003270

First tier number: PA/57263/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 21<sup>st</sup> of November 2024

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**KG (Afghanistan)**  
**(anonymity order made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Ms Brakaj, Counsel instructed by Iris Law Firm  
For the Respondent: Ms Young, Senior Home Office Presenting Officer

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity. 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 him or any member of his family. Failure to comply with this order could amount to a contempt of court.**

**Heard in Bradford on the 13<sup>th</sup> November 2024**

**DECISION AND REASONS**

1. The Appellant is a national of Afghanistan born in 2005. He appeals with permission against the decision of the First-tier Tribunal (Judge Forster) to dismiss his appeal, on protection and human rights grounds, against the decision to refuse to grant him leave to remain in the United Kingdom.
2. The core facts of this case are not in dispute. The Appellant lived with his family in Kabul. He left school when he was about 13 and went to work as an apprentice to a car mechanic. The garage where he worked repaired vehicles for the Afghan Army. In August 2021 the Appellant, his boss and other mechanics who worked for him, fled Afghanistan. The Appellant arrived in the United Kingdom on the 30<sup>th</sup> November 2021, when he was 17 years old.
3. The Appellant claimed asylum the day after he arrived. Although he did not claim to have received any threats or similar from the Taliban, he averred that he feared their reprisals for having repaired Afghan Army vehicles. He stated that he has been told that the Taliban raided the garage about a month after they all left Afghanistan, and that the Taliban will have access to the records held there. He submitted that in these circumstances it is reasonably likely that the Taliban now know he worked there, and that the reprisal they will see to take against him will amount to persecution for reasons of his imputed political opinion.
4. This was a claim to which s32 of the Nationality Asylum and Nationality Act 2022 applied and this is reflected, to some degree, by the tabulated format of the Respondent's 'reasons for refusal' letter. This begins by accepting that there is a Convention reason for the claim: political opinion. Although there is no express acceptance that the Appellant "does in fact fear" the Taliban regime, Ms Young explained before me that this too is uncontested. The claim was refused on the basis that it is not reasonably likely that the Taliban would seek to persecute the Appellant in the future. Although they may have raided the shop, it was only his employer's name above the door, and it has not been established that the Taliban would know either that he worked there, or that they repaired vehicles for the Army.
5. The Appellant appealed to the First-tier Tribunal. He produced what he claimed to be a threatening letter from the Taliban, sent to him by his family. He maintained that the garage had been raided and that the Taliban wanted the men who worked there because they had been engaged in supporting the Afghan Army.
6. The Tribunal accepted many of the core facts in the case: that the Appellant had worked in a garage that had been engaged in repairing vehicles for the army, that he and his employer had fled as the Taliban took Kabul, and that there would be records in the shop which could lead to his identification as a worker there. It was not however satisfied that the Appellant required international protection. The Tribunal was not satisfied that the Appellant fell within any of the 'risk categories' set out in the Respondent's Country Policy and Information Note *Afghanistan: Fear of the Taliban* (April 2022), which was before it. In reaching that finding the Tribunal rejected, with reference to the *Tanveer Ahmed* principles, the veracity of the letter from the Taliban.
7. The Appellant now appeals on two broad grounds, and on the 6<sup>th</sup> August 2024 Upper Tribunal Judge Rastogi found that both were arguable.

8. The central area of challenge concerns the Tribunal’s reasoning on the risk to the Appellant, on the facts that it had found. At its paragraph 14 the Tribunal appears to discount the risk to the Appellant as follows:

“It is more likely than not that the Taliban would have been interested in the owners of the garage and the more senior mechanics rather than the junior apprentices”.

9. Ms Brakaj submits that this is a finding without reason. The Tribunal did not support its analysis with reference to the country background material, and Ms Brakaj submits that had it had proper regard to that material, in particular the CPIN, it could only have found the risk to be made out, given the lower standard of proof applicable.

10. The relevant parts of the CPIN have helpfully been highlighted. It states that although the Taliban issued a ‘general amnesty’ shortly after taking power, this has not been implemented with any kind of consistency. Although fighters have been instructed not to impose arbitrary penalties on those they perceive to have collaborated with the previous government and/or foreign forces,

“There are reports of human rights abuses, including targeted killings, torture, threats and intimidation, against **civilians associated with, or perceived to have supported, the former government** or international community, former members of the security forces (which may depend on their previous role), women (particularly in the public sphere), LGBTI persons, ethnic and religious minorities, journalists, human rights defenders, members of the judiciary, persons deemed to have transgressed cultural or religious mores (which may include those perceived as 'Westernised'), and persons deemed to have resisted or opposed the Taliban”

(emphasis added).

11. The ‘risk categories’ considered by the First-tier Tribunal are set out at 2.4.9 of the CPIN. For the purpose of this appeal only the first two categories are relevant:

2.4.9 The current evidence suggests that persons likely to be at risk of persecution, because they may be considered a threat or do not conform to the Taliban's strict interpretation of Sharia law, include but are not limited to:

- Former government employees and members of the Afghan National Armed Forces (ANSF), including the police
- Former employees/those linked to international forces and organisations, including interpreters

....

12. Ms Brakaj acknowledged that the Appellant does not fall squarely into either category, but suggests that he falls somewhere between the two. There is, in her submission, no evidence to support the contention that the Taliban would only be interested in the owner of a garage rather than the mechanics who were actually undertaking the work.

13. I am satisfied that this ground is made out. The standard of proof in the assessment of risk in refugee claims is relatively low for a number of good reasons. One of those reasons is the caution with which we must approach the behaviour and intentions of actors of persecution, particularly actors as vicious and unpredictable as the Taliban. As the CPIN notes, events have shown that individual Taliban fighters cannot be relied upon to implement any amnesty, or behave with compassion, or even logic. The Appellant worked, for a number of years, repairing the vehicles of the Afghan Army. Although not a soldier himself, he played a key role in enabling the army to continue fighting against the Taliban. Intimidation of the population was a key part of the Taliban strategy. That is no doubt why the CPIN now reports that “civilians associated with, or perceived to have supported, the former government” today find themselves at risk. I do not see that there is any evidential basis for concluding that they would let him off the hook because he was an employee. The appeal is therefore allowed on protection grounds.
14. It follows that the Appellant need not rely on his second ground, which concerned the Tribunal’s treatment of the letter from the Taliban, said to have been delivered to his home after his departure from the country. I therefore only address this matter briefly. The Tribunal rejected the veracity of that letter on *Tanveer Ahmed* grounds, an approach I find inexplicable given that all the Appellant’s evidence had materially been accepted. Had the letter actually been viewed in the round with that positive assessment, the Tribunal may well have accepted it as genuine. That was not however the central reason given. The real reason was that the letter itself contained discrepancies with the Appellant’s account. He said that he had received no threats from the Taliban himself, whereas the letter claimed that he had been directly approached by the organisation. The Tribunal was, on the basis of that significant discrepancy, entitled to reach the conclusion which it did, ie that the letter had been fabricated in order to bolster the claim.

### **Decisions**

15. The decision of the First-tier Tribunal is set aside.
16. The decision in the appeal is remade: the appeal is allowed on protection grounds.
17. There is an order for anonymity.

Upper Tribunal Judge Bruce  
Immigration and Asylum Chamber  
20<sup>th</sup> November 2024