



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/01939/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at North Shields
Reasons Promulgated
On 30th January 2018
2018**

**Decision &
On 9th April**

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

**MR MN
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs. Brakaj of Iris Law firm
For the Respondent Ms. Petersen, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant is a national of Pakistan who came to United Kingdom in January 2013 along with his wife. She had been granted entry clearance as a student and he was admitted as her dependant. They have no children.

2. He claimed protection in August 2016 on the basis he would be at risk in Pakistan as he had converted from Islam to Christianity. He indicated his conversion occurred towards the end of 2015. Someone he knew here visited Pakistan in March 2016 and told his family about this and they have threatened him.
3. His claim was refused, with the respondent not accepting the claim of conversion.
4. His appeal was heard before First tier Judge Cope at North Shields on 3 April 2017. In a decision promulgated on 4 May 2017 it was dismissed. The judge accepted the conversion and that this had become known to the appellant's father, who had threatened him. The judge accepted he had established by the low standard of proof applicable a subjective fear of persecution for a Convention reason. The judge went on to consider by analogy the approach set out in HJ Iran-v- SSHD [2010] UKSC 31 and the appellant's statement that he would not share his faith openly with others in Pakistan because of the likely reaction. Consequentially, the judge found that he would be modifying his behaviour. Regarding the country information, the judge noted a difference in the treatment between those who had been raised as Christians and those who had converted from Islam to Christianity. However, the judge did not find the appellant at risk of persecutory treatment outside his family. The judge concluded that there was sufficiency of protection and, in the alternative, he could reasonably relocate to avoid localised difficulties.
5. The application for permission to appeal began by setting out the facts found by First tier Judge Cope. However, it was submitted the judge had unduly relied on the decision of AK and SK Pakistan [2014] UK UT00569 when applying it to a convert rather than a Christian from birth. Reference was also made to the country information about the difference in treatment between Christians by upbringing and from converts from Islam. It was argued the judge failed to adequately reflect the distinction in reaching a conclusion on the risk for this appellant. All of this impacted upon the application of the principles of HJ Iran-v- SSHD [2010] UKSC 31.
6. Permission to appeal was granted on the grounds advanced.

In the Upper Tribunal

7. At hearing Ms Pettersen confirmed that there was no challenge by the respondent to the judge's finding of fact that the appellant had converted from Islam to Christianity.
8. Mrs. Brakaj acknowledges that up to a point the judge recognised the difficulties the appellant would face as a Christian. I was referred to paragraph 62 to 69 of the decision. However, at paragraph 72, whilst accepting difficulties, the judge did not find this would amount to persecutory ill-treatment. The judge relied upon the

decision of AK and SK and that in general the difficulties faced by Christians did not amount to persecutory treatment.

9. Ms Pettersen accepted there was some force in the submissions made on behalf of the appellant. The judge had accepted that his conversion was known in his home area but that relocation was viable. Ms Petterson acknowledged that the difficulty would be if he were then to attempt to proselytise in the new area.
10. Both representatives were in agreement that if there was an error of law I was in a position to remake the decision on the agreed findings of fact.

Conclusions.

11. The decision of AK and SK Pakistan [2014] UK UT00569 concluded that Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution. They can in general practise their faith and have their own churches, schools and hospitals. Evangelical Christians face a greater risk and face the risk of a blasphemy charge. Given some charges are malicious and localised relocation can be a viable option unless the charge is being seriously pursued. 95% of the country is Muslim and less than 2 % are Christian.
12. Whether a Christian will face persecution in Pakistan is very much fact sensitive. Clearly the risks escalate in the case of a proselytising. The issue of relocation is also fact dependant. There is a distinction between the risks faced by someone who has been brought up a Christian than from a follower of Islam who has changed to Christianity. The decision of AK and SK Pakistan is directed towards the former. First tier Judge Cope acknowledged this at paragraph 68.
13. First tier Judge Cope has clearly given careful consideration to the appeal. The judge dealt with a difficult issue as to whether the conversion was genuine and made clear findings which are sustainable. The judge also noted that the appellant had not undertaken any evangelical activity. However he talked about his faith to other non-Christians and indicated a wish to do so in his home country but was afraid.
14. However, looking at the decision as a whole I find the rejection of the appeal does not square with findings made. This is particularly so given the comments at paragraph 69 wherein the judge recognises the difference between those born into a Christian community and converts from Islam. The judge refers to country information that is difficult for those known to be converts to live freely and openly in Pakistan and that this treatment is prevalent throughout Pakistan. The background information highlights the risk

for an apostate. The judge has been significantly influenced by the guidance given in AK and SK in reaching the conclusion made. However, this conclusion appears to overlooks the fact that that decision is primarily concerned with individuals born in the Christian community.

15. AJ (Risk - Christian Convert) Pakistan [2003] UKIAT 00040, as the title suggests, dealt with an appellant who claimed he had converted from Islam. Unlike here the Adjudicator had not accepted the conversion was genuine and the AIT agreed. In the alternative, the AIT referred to the then country information and concluded that he could relocate. The Scottish Court of Session decision of AHC (AP), Re Judicial Review [2012] CSOH 147 revisited this case and concluded recent country information suggested an escalation from societal discrimination to State abuses. The Court was of the view AJ (Risk - Christian Convert) Pakistan [2003] UKIAT 00040 had become out-dated factually and matters had to be considered in light of the decision in HJ (Iran). The judge had acknowledged that the appellant would modify his wish to evangelise if returned out of fear.
16. Given that there is no challenge to the finding the appellant has converted to Christianity I conclude the judge has materially erred in law in the assessment of the risk. The judge has not adequately reflected upon the distinction between Christians and converts and the fact that the appellant would want to evangelise but would be afraid to. It is my conclusion in light of the country information the appellant as a convert would face an enhanced risk and face persecution. That risk will exist throughout the country. Consequently, this is not a situation of a localised risk which could be avoided by relocation nor is there sufficiency of protection. Therefore, I would set the decision aside and remake it, allowing the appellant's appeal under the Refugee Convention.

Decision.

The decision of First tier Judge Cope materially errs in law and cannot stand. I remake the decision allowing the appeal under the Refugee Convention.

F.J.Farrelly

Deputy Upper Tribunal Judge

19th March 2018