



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/11149/2018**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Determination & Reasons

Promulgated

On 11 April 2019

On 08 May 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

MR AKHTAR NAWAZ
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr A Swain of Counsel

For the respondent: Mr L Tarlow, Senior Presenting Officer

DETERMINATION AND REASONS

The appellant and the circumstances of the appeal

1. The appellant is a national of Pakistan born on 8 April 1984 who appealed against the decision of the respondent refusing to grant him asylum and humanitarian protection in the United Kingdom. First-tier Tribunal Judge Hawden Beale dismissed his appeal in a decision dated 27 November 2015. First-tier Tribunal Judge Pedro granted permission to appeal to the appellant stating that it is arguable that the Judge misdirected herself on the issue of internal relocation in light of the

background evidence before her to which he made reference indicating State persecution.

2. The First-tier Tribunal Judge in her decision stated the issue that she has to decide is whether the appellant is credible in his claim to have been approached by four armed men before he came to the United Kingdom and whether he can return to his home area and if he cannot, whether he can relocate given that he says that he is a Pushtun who are not welcome and also whether his credibility been damaged by his claim for humanitarian protection only being made after he had been arrested.
3. The grounds of appeal state the following which I summarise. The background evidence relied on by the Judge finds that not all Pashto speakers have been discriminated against whereas the report actually confirms State persecution of ethnic Pashtuns. The report states that since the launch of nationwide antiterrorism measures, and the National Action Plan, large number of students have been arbitrarily arrested and detained across the country on suspicion of terrorist activities. Although the report examines in detail the position of Pashtuns in the Punjab province, the report makes clear that these measures are nationwide and that Pashtuns across the whole of Pakistan are targeted. Specific mention is made of racial profiling in Islamabad of the classes of persons who are most at risk. The appellant is such a class of person. The report also confirms that the European Commission and High Representative of the Union for foreign affairs and Security Policy acknowledges that Pashto people seem to have been systematically discriminated against as potential terrorists.
4. The Judge has therefore approached the issue of internal relocation incorrectly. The issue before the Judge was not whether all Pashtuns have been discriminated against but whether this appellant would face prosecution if returned to Pakistan.
5. In view of the nationwide measures taken against ethnic Pashtuns it is submitted that there is State persecution of Pashto Pakistanis by reasons of imputed political opinion. Therefore, the Judge has fundamentally erred in law in assessing the appellant's claim for asylum and saying that any risk to him can be obviated to the appellant by internal relocation.
6. The Judge found that the appellant's account of four men approached him and injured his father was consistent and supported by some of the background evidence. The Judge however found that objective evidence confirms that although the appellant cannot return to his home area given the proximity of the appellant's home area to the Afghan border and the objective evidence states that the local authorities have joined forces with the fight the Afghan Taliban she was satisfied that it is likely that the appellant will be pressurised into fighting with the local area.

7. The Judge found however that the appellant can relocate to another area of Pakistan other than Punjab, Lahore and to a lesser extent Islamabad where Pashtuns have been targeted. The Judge found that the appellant speaks Urdu and would be able to communicate in that language if returned to Pakistan.
8. The Judge found that risk to the appellant will be obviated by internal relocation. The Judge relied on the objective evidence and stated that Pashto speakers are not targeted all over Pakistan and there are areas in Pakistan to which the appellant can relocate. The Judge found that Pakistan was a large and populous country and the appellant speaks the local language and therefore language would not be a barrier.
9. Permission to appeal was granted on the basis that the Judge did not consider whether relocation for the appellant in the whole of Pakistan must be considered because he is a Pashto speaker who was targeted in the past. The Judge has considered the appeal even-handedly and while finding the appellant's account plausible, he found that the appellant can relocate to a part of Pakistan where Pashtuns are not targeted even if they may face some discrimination which does not reach the threshold of persecution.
10. I do not find that the judge misdirected himself on the issue of relocation having considered background evidence that only certain areas in Pakistan such as the Punjab, Lahore and to a lesser extent Islamabad where it would not be safe for the appellant to return as a Pashto. The Judge was entitled to make this finding on his consideration of the background evidence before him.
11. There are many Pashtuns living in Pakistan and the Judge found that the appellant's fear is localised to his area. Karachi would be a possible city for the appellant to relocate to. The Judge found that Pakistan is a larger populous country and if he does not return to his home area, there would be no risk to him, and this is a decision reasonably open to her.
12. It was accepted on the grounds of appeal that most of the evidence in the report states that Pashtuns are targeted relates to the Punjab. I find that the appeal is an attempt to relitigate the issues which have been properly decided and a sustainable conclusion reached. The grounds of appeal are no more than a quarrel with the findings of the Judge based on her consideration of background evidence.
13. I find that no error of law has been established in the First-tier Tribunal Judge's decision. I find that the Judge was entitled to conclude that the appellant is not entitled to be recognised as a refugee or to be granted humanitarian protection in this country because he can relocate within Pakistan safely. I uphold the decision of the First-tier Tribunal. I further find that no other differently constituted Tribunal would come to a different conclusion.

DECISION

I find that there is no material error of law and I dismiss the appeal

Signed by
Deputy Judge of the Upper Tribunal
Mrs S Chana
of April 2019

Dated this 30th day