



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

Appeal Number: PA/01043/2018

**THE IMMIGRATION ACTS**

**Heard at: Manchester Civil Justice Centre  
On: 17th August 2018**

**Decision Promulgated  
On 9th November 2018**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**SM  
(anonymity direction made)**

Appellant

**And**

**The Secretary of State for the Home Department**

Respondent

**For the Appellant: Mr Jagadesham, Counsel instructed by Duncan  
Lewis & Co Solicitors**

**For the Respondent: Mr Bates, Senior Home Office Presenting Officer**

**DETERMINATION AND REASONS**

1. The Appellant is a national of Pakistan born in 1977. He appeals with permission<sup>1</sup> the decision of the First-tier Tribunal (Judge Meyler) to dismiss his protection appeal.

**Anonymity Order**

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<sup>1</sup> Permission granted on the 4<sup>th</sup> April 2018 by First-tier Tribunal Judge Keane

2. This appeal concerns a claim for protection. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders I therefore consider it appropriate to make an order in the following terms:

“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 to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

### **Matters in Issue**

3. The Appellant asserted that he had a well-founded fear of persecution in Pakistan for reasons of his political opinion. He states that he is a member of a Kashmiri political group called the United Kashmir People’s National Party (UKPNP), who advocate Kashmiri independence from Pakistan and are consequently perceived by the Pakistani security forces to be Indian agents. He claims that he was involved in this group, and suffered persecution as a result, before he left Pakistan some years ago; he further claims that since his arrival in the United Kingdom he has been elected to the office of deputy secretary-general of the organisation in Birmingham.
4. The Secretary of State for the Home Department had by his letter dated the 3<sup>rd</sup> January 2018 rejected the entire account for want of credibility. The Appellant’s account was found to be vague and inconsistent and his claim to have a subjective fear undermined by the fact that it had taken him until 2016 to claim asylum, despite the claimed events giving rise to the fear having taken place in 2010. Before the First-tier Tribunal, however, the Respondent had made one concession as to fact. The Presenting Officer on the day accepted that the Appellant is an active member of the UKPNP in the United Kingdom. An article confirming his post as Deputy General Secretary of the Birmingham branch had appeared in *The Nation* – a newspaper published in London for the Pakistani community – and this had been verified as genuine.
5. The First-tier Tribunal accepted the Respondent’s concession in respect of the Appellant’s role within the UKPNP in this country. It accepted [at 22] that the Appellant was, at some point at least, elected to the role of Deputy Secretary General for the United Kingdom in Birmingham. It further accepted that the UKPNP are excluded from the political process in Pakistani-administered Kashmir

and that there have been reports over several years of human rights abuses carried out by the Pakistani intelligence services against perceived opponents there. The leader of the UKPNP had been arrested, tortured and exiled in 1999 and had not been back to the country since [at 24-28]. The Tribunal had regard to a medical report by a Dr Lodhi and accepted that the Appellant was suffering from depression [at 37].

6. Beyond these matters, the Tribunal made no positive findings in the Appellant's favour. In particular it found:

- i) The Appellant's evidence about events in Pakistan prior to his departure for the United Kingdom could not be relied upon. He had given markedly inconsistent evidence about where he had been and where he had been living at material times [39-44], a witness called in support had given materially different evidence from the Appellant [42], the documentary evidence was inconsistent and unreliable [45] the Appellant's account of why he had decided to join the UKPNP made no sense [47-48], and the narrated chronology of events was inconsistent. In particular the Appellant's claim that he had ceased all political activity following a serious assault in April 2010 was not consistent with his claim that he took up the post of General-Secretary in May 2010 [49-50]; nor was his claim to have been kidnapped and tortured on two occasions in 2010 consistent with the fact that he returned to his home area in Pakistan on two occasions in 2012 and 2013/14 [57]. Further inconsistencies arising from the chronology are identified between paragraphs [52-59];
- ii) That Dr Lodhi's diagnosis of PTSD could not be relied upon because the Appellant had demonstrably given him a false medical history and had exaggerated his symptoms when he completed the Impacts of Events Scale for PTSD questionnaire [33-37].

7. Having reached those negative findings the Tribunal squarely rejected the Appellant's claim to have been involved in the UKPNP in Pakistan, or to have suffered persecution as a result of any such involvement:

"60. In light of all the difficulties in the appellant's evidence I have identified above, I find that the appellant has failed to show before me that the facts he sought to rely on relating to events in Pakistan are established to the lower standard of proof. Taking into all the evidence before me, including all the difficulties with the appellant's evidence, some of which I

have set out above, I find that the appellant has not shown before me, to the lower standard of proof, that he was politically active in Pakistan for the UKPNP or that he was targeted on that account or any other.

61. It is uncontentioned that the appellant has been active for the UKPNP in the UK, however I find that the appellant would have no interest in pursuing his political activities on return to Pakistan, as he would stand nothing to gain from this. Mr Hussain submitted that I cannot make this finding as it was not put to the appellant in cross-examination that his activities are based on ulterior motives, however I find, in light of all the difficulties in the appellant's evidence as explained above, that this conclusion is open to me on the evidence before me".

8. She went on paragraph 64 to note: "there was no country information before me that the authorities take an interest in the activities of the UKPNP abroad when failed asylum seekers are returned to Pakistan on their own passports. I re-emphasise that the appellant has returned twice to Pakistan in 2012 and 2013 and left in 2012 and 2014 on his own passport without any difficulties". Finding no current risk of harm in Pakistan, the appeal was dismissed.

9. The Appellant now appeals on two grounds:

- i) That the First-tier Tribunal's findings on risk are irrational in light of the accepted evidence that the Appellant is currently an activist for the UKPNP. The country background evidence indicates that UKPNP activists are at risk of human rights abuses;
- ii) It being accepted that he is an activist in this country it should have been accepted that this was borne of a genuine political commitment; if this was doubted that is a matter that should have been put to the Appellant in order that had an opportunity to meet that challenge.

10. Mr Bates defended the determination on all fronts.

### **Discussion and Findings**

11. Before me Mr Jagadeshram squarely acknowledged that two findings of the First-tier Tribunal placed him in difficulty. The first was that the Appellant's *sur place* political involvement is wholly cynical and will not be continued in Pakistan [at FTT 61]. The second was that

no objective risk arises from the work he has already done here [at FTT 64].

12. As to the first of these findings, Mr Jagadeshm submits that the Tribunal reached its conclusion unsupported by any analysis of the evidence before it. The Appellant had asserted, and the Respondent had accepted, that he played an active role in the UKPNP in this country. It was in those circumstances incumbent on the Tribunal to ask itself why. If it was to conclude, as it appears to at paragraph 61, that these activities were a cynical ploy to try and get refugee status, the Tribunal had to give some reasons for reaching that conclusion.
13. I am unable to accept that paragraph 61 amounts to a conclusion with no reasons. In the lengthy and cogent reasoning that precedes this paragraph the Tribunal sets out in considerable detail why it does not believe the Appellant's evidence (as summarised at my 6(i) above). The view taken by Judge Meyler is encapsulated at her paragraph 29: "it was an uncontentious fact that the appellant was a poor witness before me and Mr Hussain [*counsel before the First-tier Tribunal*] effectively conceded this before me. The appellant frequently appeared to be dumbfounded by the fairly straightforward questions asked and hesitated or paused for long periods before answering". Among the fairly straightforward questions asked of the Appellant was an enquiry as to what motivated him to join the UKPNP: as the Tribunal sets out at its paragraphs 47-48, he was unable to give a coherent response. Further, at paragraph 58 of the determination, the Tribunal concludes: "I find that it is not reasonably likely that a *genuine* UKPNP activist would have no awareness of the possibility of claiming asylum, given that their own chairman has done so..."(my emphasis). Even if one sets aside what might be termed the generally negative findings on the Appellant's entire case, these reasons go directly to whether Judge Meyler accepted that the Appellant's UK-based activities were motivated by genuine political commitment or not. On the evidence before her she was plainly entitled to conclude that the Appellant did not in fact hold such a commitment, and that he would desist from any activities once he had returned to Pakistan.
14. As to the second finding Mr Jagadeshm took me to references in the objective evidence to the Pakistani intelligence service (the ISI) mounting surveillance operations against perceived Kashmiri separatists, and to human rights abuses committed by the police and army in Kashmir. I am not satisfied that any of that country background material is capable of demonstrating any error on the part of Judge Meyler. That is because none of it suggests that there is any surveillance of perceived Kashmiri separatists in the Pakistani diaspora. There was no such evidence before Judge Meyler. As such she was entitled to conclude that there was no risk arising from any

*sur place* activities in Birmingham. The evidence that was highlighted by Mr Jagadeshm was exclusively concerned with the treatment of activists in *Kashmir*. Given the finding that the appellant was not going to continue his activities once removed from the United Kingdom it was of little relevance to her risk assessment. I also record the very good point made by Mr Bates that this Appellant is not even from Kashmir. Navigating her way through decidedly inconsistent evidence on the point Judge Meyler concluded that the Appellant lived, at all material times, in Matore, a suburb of Rawalpindi, and it is to there that he would return. He may also have spent some time with family members in Taxila and/or Wah Cantt, neither of which are in Kashmir. It is very difficult in those circumstances to see why he might be affected by human rights abuses in that region.

15. I find no error in the determination of the First-tier Tribunal. The Tribunal has conducted a careful and detailed analysis of the evidence before it and reached cogent and well-reasoned conclusions. The appeal is therefore dismissed.

### **Decisions**

16. The appeal is dismissed.
17. There is an anonymity order.

Upper Tribunal Judge Bruce  
30<sup>th</sup> October 2018