



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

**Appeal Number: UI-2021-000671
On appeal from PA/50223/2021
[LP/00167/2021]**

THE IMMIGRATION ACTS

**Heard at George House,
Edinburgh
On the 14 September 2022**

**Decision & Reasons Promulgated
On the 31 October 2022**

Before

UT JUDGE MACLEMAN

Between

MOHAMMED ASLAM

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Katani & Co,
Solicitors

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge P A Grant-Hutchison dismissed the appellant's appeal on protection and on article 8 grounds by a decision dated 18 July 2021.
2. By a decision dated 5 January 2022, UT Judge McWilliam refused permission to appeal on grounds challenging the refusal of the protection

appeal. She granted permission “on article 8 grounds only” on the view that arguably the Judge “did not consider the background evidence and the length of time that the appellant has been in the UK”.

3. The appellant petitioned the Court of reduction of the refusal of permission in respect of his grounds 3 (i) and (ii). In an note dated 18 May 2022, Lord Richardson took the preliminary view that the grant of permission did not preclude article 8 grounds contained within those sub-paragraphs.
4. Grounds 3 (i) and (ii) complain of failure to make findings on whether the appellant was estranged from his family, and on how problems in the evidence impacted on that issue.
5. Having seen the respondent’s and the Court’s preliminary position that there was no restriction on grounds going to article 8, the appellant took those proceedings no further.
6. In a rule 24 response to the grant of permission, the SSHD says that time spent in the UK was clearly part of the assessment, and the grounds are only disagreement.
7. Mr Winter argued that the Judge failed to decide whether the appellant was estranged from his family, and the omission was material, because a finding on his favour would have been relevant, particularly in the assessment outside the rules at [38], and it was not inevitable that on factoring in a positive assessment on that point, the outcome would be the same.
8. Mr Mullen, correctly, accepted that the Judge did not decide whether the appellant is estranged from his family in Pakistan. He argued that does not matter, because the assessments at [37], in terms of the rules, and at [38], on article 8 more broadly, would expressly be the same, even if he is estranged.
9. I prefer the respondent’s interpretation.
10. The Judge says at [37], “I cannot find that there are insurmountable or even very significant obstacles to his reintegration. Given that I ... found ... the appellant to be incredible it may be the case that his family are not so estranged as he would have me believe but it is not necessary for me to speculate in this regard to make the foregoing findings.” The finding against the appellant is plainly reached whether or not he is estranged from his family.
11. At [38] the Judge lists various factors, not including family in Pakistan. He mentions the possibility of replicating in Pakistan friendships the appellant has in the UK, a matter which would generally rank below family. The Judge ends, “When I consider all matters in the round including his poor immigration history it is proportionate to refuse the appeal”. I cannot read this paragraph as leaving open a different outcome, if it had been found that the appellant is estranged from family in Pakistan.

12. The length of time spent in the UK is clear throughout the decision. The grounds on this theme are only insistence that the matter should have tipped the proportionality balance.
13. The appellant has a wife and adult son in Pakistan, and other extended family. He made a belated and rather garbled asylum claim, in which alleged risk was attributed partly to family members. The Judge, for unassailable reasons, rejected that claim. It is perhaps unclear why he thought it would be speculative to extend his adverse findings from risk to the allied claim of estrangement. It would be practically impossible to separate the evidence on those points. If he had decided to resolve the matter, it is hard to see that the outcome might have been favourable to the appellant. However, the key point now is that there was no error in holding that resolution was unnecessary, because the outcome was the same in either event.
14. The decision of the FtT shall stand.
15. No anonymity direction has been requested or made.

H Macleman

20 September 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A **"working day"** means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.