



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/03987/2020**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 8<sup>th</sup> February 2022**

**Decision & Reasons Promulgated  
On 09<sup>th</sup> March 2022**

**Before**

**UPPER TRIBUNAL JUDGE LINDSLEY**

**Between**

**NK  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr D Bazini, of Counsel, instructed by Taylor Rose MW Solicitors

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

**DECISION AND REASONS**

*Introduction*

1. The appellant is a citizen of Pakistan born in 1983. He arrived in the UK in 2006 as a student. On 29<sup>th</sup> October 2018 he claimed asylum and this application was refused on 29<sup>th</sup> June 2020. His appeal against this decision was dismissed by First-tier Tribunal Judge Parkes in a determination promulgated on the 18<sup>th</sup> May 2021.

2. Permission to appeal was granted by Upper Tribunal Judge Norton-Taylor on 3<sup>rd</sup> September 2021 on the basis that it was arguable that the First-tier judge had erred in law in assessing the evidence and making findings thereon. The appellant was directed to provide a three page precis of the very lengthy grounds, and to serve the new evidence on the respondent. The summary grounds were provided, dated 20<sup>th</sup> September 2021, by Mr D Bazini of counsel.
3. The matter came before me to determine whether the First-tier Tribunal had erred in law, and if so whether the decision should be set aside and remade.

#### *Submissions - Error of Law*

4. In grounds drafted by Mr Bazini the appellant's case is, in summary as follows. The First-tier Tribunal erred in the assessment of the credibility of the appellant's account. This is because of numerous errors in assessing evidence by the First-tier Tribunal Judge. Examples are as follows. At paragraphs 27 -28 of the decision the letter from Mr Khan, High Court Advocate, of 7<sup>th</sup> January 2021 is said to say he went with the appellant to the police station when this is not the case. At paragraph 27 of the decision it is also said that Mr Khan says in his letter that a formal complaint had been made by the British High Commission when this is not the case. The finding at paragraphs 26 to 27 of the decision that the gang would know about the issue of passport and travel to Dubai is contrary to the expert evidence of Dr Owen Bennett-Jones at paragraph 12 of the expert report. There is a failure to consider the evidence in the grandfather's affidavit and to make findings on its credibility. The observations with respect to the two BBC reports at paragraphs 19 to 20 of the decision are contrary to the evidence and so irrational. The First-tier Tribunal Judge took an unreasonable approach to the police information and applies his own understanding without putting this first to the appellant at paragraph 18 of the decision. The First-tier Tribunal uses the term "self-serving" in an unlawful way to give no weight to evidence at paragraph 23-25 of the decision. There was a failure to consider the two country of origin expert reports at paragraphs 30, and 32 to 33 of the decision. It was irrational to find that being shot at only once was insufficient at paragraph 27 of the decision, and in addition this ignores the fact that the appellant had relocated to Karachi to find safety only to find himself at risk. At paragraph 29 of the decision there was an unlawful failure to take into account that it was only known that the appellant was in Dubai in late 2017/early 2018. The First-tier Tribunal engages in speculation about the reach of gangs and non-attendance at his grandmother's funeral at paragraph 31 of the decision.
5. At paragraph 40 of the decision, it is contended, that there is a wrong application of the Refugee Convention, finding that the appellant is not entitled to refugee status even if at risk as he might be able to go and live with his wife in Uzbekistan. There is also a failure to make a finding in respect of the best interests of the children, which is pertinent as

there is expert evidence going to societal discrimination and lack of medical provision for those with Down's Syndrome and one of the appellant's children has this condition.

6. In a Rule 24 notice from Mr Alain Tan, Specialist Appeals Team, the respondent accepts that there are errors of law in the decision of the First-tier Tribunal, and that the decision and all of the findings should be set aside, with the matter remitted to the First-tier Tribunal to be heard de novo.

### *Conclusions - Error of Law*

7. It is found by consent that the First-tier Tribunal erred in law in making its decision for the reasons put forward by the appellant.
8. Given the very extensive amount of remaking and the need to consider further evidence in the form of emails from the Metropolitan Police to the appellant, which has come into existence since the time of the First-tier Tribunal hearing, I find that it is fair and just to remit this matter for a hearing de novo before the First-tier Tribunal before a Judge other than Judge of the First-tier Tribunal Parkes applying paragraph 7.2 (b) of the Joint Practice Statements of the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal.
9. It is Mr Bazini's reasonable request that the First-tier Tribunal proceed on remittal by firstly listing this matter for a directions hearing, with a view to making a direction to the Metropolitan Police under Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

### Decision:

1. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
2. I set aside the decision of the First-tier Tribunal and all of the findings.
3. I remit the remaking of the appeal to the First-tier Tribunal to be heard de novo by a judge other than Judge of the First-tier Tribunal Parkes, with consideration to be given to firstly holding a directions hearing.

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court

proceedings. I do so in order to avoid a likelihood of serious harm arising to the appellant from the contents of his protection claim.

Signed: Fiona Lindsley

Date: 8<sup>th</sup> February 2022

Upper Tribunal Judge Lindsley