



IAC-FH-NL-V1

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

Appeal Number: DA/02565/2013

THE IMMIGRATION ACTS

Heard at Field House
On 13 July 2015

Decision & Reasons Promulgated
On 24 July 2015

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MOHAMMAD TARIQ SAEED

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Plowright, Counsel instructed by Kesar & Co Solicitors
For the Respondent: Mr T Kelvin, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 7 April 1991 and is a citizen of Pakistan.
2. He first entered the United Kingdom on 8 January 2011 with entry clearance as a Tier 4 Student until 31 December 2011. Further leave to remain thereafter was refused. He contacted the Home Office twice in January 2013 asking for the return of his passport so that he could go back to Pakistan. On 8 February 2013, he was asked to attend Eaton House Immigration Office on 7 March 2013 so that arrangements could be made for his voluntary return to Pakistan. He was unable to attend because, on 5

March 2013, he was arrested trying to leave the United Kingdom for Canada on a passport to which he was not entitled. He claimed asylum, and a screening interview was conducted on the same day. He was also served with papers as an overstayer and detained under Home Office powers.

3. On 14 March 2013, the appellant was convicted at Isleworth Crown Court of the possession and/or use of a false instrument. He was sentenced to imprisonment. Such a sentence brought into operation his automatic deportation by virtue of Section 32 of the UK Borders Act 2007.
4. On 14 April 2013, the appellant was notified of his liability to automatic deportation.
5. Thereafter the appellant sought to appeal against the decision of 12 December 2013 to make a deportation order against him under Section 32 of the 2007 Act. He claimed also to be a refugee, whose removal from the United Kingdom would breach the UK obligations under the Refugee Convention interpreted by the Refugee or Person in Need of International Protection (Qualification) Regulations 2006. Alternatively, he claimed that he was entitled to be granted humanitarian protection under paragraph 339C of the Immigration Rules. He also claimed that his removal from the United Kingdom would breach his rights under the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms.
6. His appeal came before First-tier Tribunal Judge Stokes and Mrs Street JP at a hearing on 19 May 2014. In a detailed determination the appellant's appeal was dismissed on all grounds, thus the deportation order in his case remains in force.
7. The appellant sought to appeal those findings and conclusions to the Upper Tribunal. The matter came before me in that connection at a hearing on 17 September 2014. On that occasion the appellant was represented by Mr Sowerby.
8. In general terms, the experiences of the appellant in Pakistan fell into two parts. It was his contention that when he lived in the Bara Khyber Agency of Pakistan he was targeted by the Taliban as were others in his area to join that organisation. Many of his friends had trained as suicide bombers but the appellant had refused to join them. This was in the period 2006 to 2007. It is said that the Taliban had particularly wanted to recruit the appellant because of his grandfather's position as the head of the tribal elders. His grandfather tried to reason with the Taliban but with little success. In December 2008 the Taliban told the family to leave the house and they having done so the Taliban burned it down. This was a warning. The appellant was given a firm indication that if he did not join the Taliban he would be killed. In general terms that account was accepted by the Tribunal.
9. Thereafter the family moved to Peshawar City and lived there from 2008 to 2010. Little of significance happened during that time other than that the appellant was contacted by an unknown girl, who indicated she wanted to be friends with him. They arranged to meet on 16 March 2010 and when he did he was captured by a group of people described by the appellant as the Taliban. The purpose of his capture was to extract money from his family, namely 15,000,000 rupees (£100,000)

which was paid to them by his father through the elders. He was released on 21 April 2010. Following his release, however, his grandfather called a meeting seemingly to demand that the kidnappers repay the money. Instead the grandfather was killed on 4 August 2010. Generally speaking, that account was also accepted although the Tribunal did not accept necessarily the causation of the grandfather's death but nevertheless accepted the genuineness of the death certificate. That speaks of firearm injuries.

10. One of the arguments advanced before the Tribunal was that the appellant would be at risk upon return because of the continuing interest in him by the Taliban. It was the contention made before the First-tier Tribunal that there was a causative link between the Taliban's activities towards the appellant in his home town and the capture of him in Peshawar.
11. The Tribunal did not accept that there was a causative link. The Tribunal found and set out a number of reasons, why they considered the activities of the group of Taliban who had an interest in the appellant in 2007 and 2008 could not necessarily be attributed to the group who abducted him in 2010. One reason that was given in particular was that the first group had sought to use him as a suicide bomber and threatened to kill him if he did not co-operate. The second group did not make those threats and did not abduct him for that purpose but rather to make money for themselves.
12. It was my view upon the hearing conducted on 17 September 2014 that it was reasonably open to the Tribunal to have come to the conclusions on the matter which they did.
13. The First-tier Tribunal concluded that it was safe for the appellant to return to his home area and that there was in any circumstances a sufficiency of protection available to him. Internal relocation was not considered.
14. I found that there was a lack of clarity in the reasoning of the Tribunal as to why such protection would be available to the appellant in his home area. In those circumstances that issue needed further consideration as to the safety of returning home, also the issue of internal relocation.
15. Given the limited area of consideration I found that it was reasonable for the matter to be retained in the Upper Tribunal for such findings to be made. A determination was promulgated by me in that matter.
16. Thus the matter returns before me to determine those issues which were raised.
17. Mr Plowright, who represents the appellant, invited me to find that the appellant having been of adverse interest to the Taliban either in the Bara Khyber Agency or in Peshawar City would remain of interest to those groups.
18. Whether it had been the Taliban in the Bara Khyber Agency or the Lashkar-e-Islam in the Peshawar City both groups had become stronger and indeed had now

amalgamated forces. Support for that contention was provided by an article “The Long War Journal” by Bill Roggio dated 12 March 2015.

19. The Article sought to confirm that two Taliban groups, which had split in 2014 from others over a leadership dispute and the Lashkar-e-Islam, had united and reformed the movement of the Taliban in Pakistan. The announcement of the reunification of the two large factions of the Jihadist group, one led by Omar Khalid Khorasani and the other by Mullah Fazlullah, and the merger with Lashkar-e-Islam was announced by a spokesman for one of the factions. The amir for the new group had not yet been named nor chosen.
20. It remained unclear if the two Mehsud factions, led by Sajna and Sheheryar Mehsud are in talks to rejoin the movement of the Taliban in Pakistan.
21. The article went on to speak of the fact that the movement of the Taliban in Pakistan had suffered several defections in 2014 which had greatly reduced the group’s power and influence in north western Pakistan and beyond. A group which had split was led by Maulana Umar Qasmi who opposed peace negotiations with the Pakistani Government. A further split was from the organisation run by Mehsud which accused its parent organisation of being “un-Islamic”. Another faction in north Waziristan led by Sheheryar Mehsud also broke away declaring that extortion, kidnapping for ransom and bombing public places was forbidden by Islam.
22. Indeed I note from the documentation, that was presented to the First-tier Tribunal and in particular at page 3 of the bundle, there was an article from Wikipedia on the Tehrik-i-Taliban Pakistan which was related to the Taliban movement of Pakistan dated 4 November, speaking of the fact that the TTP had fragmented into at least four groups and that the defections had left the group in considerable disarray.
23. It is also noted from the same article that on 25 August 2008 Pakistan had banned the group, frozen its bank account and assets and barred it from media appearances. The government also announced that bounties would be placed on prominent leaders of the TTP. In August 2009 a missile strike from a US drone had killed one of the leaders of the TTP. Fighting had broken out between various factions as to a new leader. In August Pakistani security officials had captured the chief spokesperson of the TTP. The report speaks of various leadership struggles within the group.
24. So far as the structure of the TTP reference is made at page 7 of the same article in the bundle namely that it differs in structure to the Afghan Taliban and that it lacks a central command and is a much looser coalition of various militant groups, united by hostility towards the central government in Islamabad. Several analysts described the TTP’s structure as a loose network of dispersed constituent groups that vary in size and in levels of coordination. The various factions of the TTP tend to be limited to their local areas of influence and often lack the ability to expand their operations beyond that territory. In its original form the TTP had Baitullah Mehsud as its amir. Following that person’s death the organisation experienced turmoil among its

leading militants. In August 2009 Hakimullah Mehsud had been appointed as the amir. It was he seemingly who was killed in January 2010 during a US drone attack.

25. A report published in the Express Tribune in December 2011 described the network as “crumbling” with “funds dwindling and infighting intensifying”. According to various TTP operatives, the difficulties stemmed from differences of opinion within TTP leadership on pursuing peace talks with Islamabad.
26. Considering once again the original documentation that had been presented before the First-tier Tribunal there was also an article from the website showing pictures of the conflict in the Tirah Valley region. They are to be found at pages 47 onwards in the bundle. It speaks of the Khyber tribal area in north Pakistan being a battleground for various armed groups, it being a gateway linking the Afghan northern corridor to Pakistan it has been the scene of many battles between the Pakistani army and the rebels. There has been some semblance of normality more recently. It is said that over 1,800 people had been killed in the previous year. The article is dated 2014. A spokesman for the Khyber Agency spoke of more than 80,000 people being displaced in March 2013 alone as a result of the fighting between the three main armed groups, the Lashkar-e-Islam, the Ansar-ul-Islam and the Pakistani Taliban.
27. There was a further article from the internet speaking as to the role of Lashkar-i-Islam in Pakistan’s Khyber Agency dated September 2014. That is to be found at pages 62-63 of the original bundle.
28. It is said that that agency remains a bastion of militant activity. It was suffering from a blend of sectarian violence and Talibanisation. It reveals now at least one militant group, the Lashkar-i-Islam has turned from a vigilante crime fighting organisation into a terrorist group allied with the TTP. That agency is geographically significant because it borders Peshawar. It is a critical hub of the area’s weapons trade. It said it has been a hotbed of militancy ever since the Tirah Valley and has been acting as a key territory used by anti-state militancy. This area seems to be reflective of militants fleeing across the borders in Afghanistan. It speaks of Pakistan’s military being heavily engaged in Waziristan and being hard pressed to give full attention to the Khyber Agency.
29. Whether the appellant could safely return to his home area be that the Khyber Agency or Peshawar City is to some extent a matter of speculation.
30. On one hand it could reasonably be argued that there is little about the appellant’s current individual and family circumstances which would make him of any interest to the Taliban. The Taliban in the Bara Khyber were interested in him particularly because of the influence of his grandfather. The grandfather is now dead. Whatever group kidnapped him in Peshawar were concerned to exploit his family situation and as I understand the matter the family as a whole are now living in China.
31. Thus there would seem to be little reason why the Taliban would find the appellant of interest to them or indeed be motivated to seek further funds from him. The fact that the appellant has come to their attention on two occasions is a matter that must

be borne in mind as also the general situation in that region. Given the hard task which Pakistani forces have dealing with the militants in that area, it is in my view somewhat optimistic to conclude that they would be able to give adequate protection to the appellant were it to be the case that he came to the adverse attention of the Taliban. The appellant will be returning to the area after a considerable break of time and his return may be the subject of comment which leads to some potential danger of further enquiry.

32. Although I consider that the risk to the appellant is remote it seems to me that in all the circumstances a potential danger to him upon return to his home area cannot reasonably be discounted.
33. I consider therefore the issue of internal relocation. In that connection I have been given the Country Information and Guidance dated as at 6 October 2014. That report has rather limited comment on the subject but it set out at paragraph 2.4. It makes the point that because of Pakistan's size and diversity internal relocation offers a degree of anonymity and the opportunity for victims to seek refuge from discrimination or violence. In most cases there are options available for members of most ethnic and religious minorities to be able to relocate to areas of relative safety elsewhere in Pakistan. In particular many large urban centres are home to mixed ethnic and religious communities and offer greater opportunities for employment, access to services and a greater degree of state protection than other areas.
34. Further in that connection I bear in mind the guidance that has been provided by the Tribunal in **AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)**. This was promulgated in January 2011. I can see no reason why the appellant could not safely relocate to the other larger cities in Pakistan. I note indeed the evidence that had been provided in the course of the previous hearing that an uncle had business in Hyderabad which was a city some 1,000 miles away from the applicant's home area. I find no reason why the appellant would not return to live there or in Lahore or other main cities.
35. Even on a factual basis there is little or no evidence that the group of Taliban that had sought to recruit him in the Bara Khyber region had any continuing interest in him. Certainly there is no indication that from 2008 until 2010 they sought to follow him to Peshawar City. They had sought to recruit him as a member. The group that kidnapped him was interested more in money. After the money was paid the appellant remained also for a period of time in Peshawar before coming to the United Kingdom.
36. I do not find that any group of the Taliban or related organisations have any continuing interest in the appellant. It is also clear from the background material which has been cited that generally speaking the Taliban are not a united national body but rather a series of local groups who have been in considerable disarray and in mutual disagreement for a number of years. Even with the amalgamation that is now spoken of, of three groups, that does not include a number of other groups. Although clearly the influence of the Taliban and the various groups is greater in the

border region there is nothing to indicate that they have any real influence elsewhere in Pakistan, certainly no interest in seeking the appellant or indeed having the infrastructure to share information between one group and the other even if they had.

37. It is clear that the Pakistan authorities are intent on taking action against the organisation or groups that they are carrying out such actions in Pakistan.
38. In the circumstances I do not find, as I have indicated, that there is any reasonable likelihood of the appellant being at risk from such groups either through their interest in him or his involvement with them. I find, therefore, that internal relocation is properly open to the appellant and that such relocation would not be unreasonable or unduly harsh. He is a relatively young man and I can see no reason at all why he could not have proper access to means of economic support and livelihood elsewhere in Pakistan.
39. In the circumstances, therefore, I uphold the decisions which have been made by the First-tier Tribunal and dismiss the appellant's appeals in all respects. Insofar that I found there to have been an error in the approach taken to asylum and humanitarian protection, I make such findings and dismiss those appeals on such findings in any event.
40. In the circumstances I find that the order for deportation stands and that there has been no adjudication made favourably to the appellant which would render his removal in breach of any obligation of the respondent or UK authorities.

Notice of Decision

41. In all the circumstances therefore the appellant's appeal to the Upper Tribunal is dismissed. The decisions of the First-tier Tribunal affirmed.

Signed

Date

Upper Tribunal Judge King TD

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Upper Tribunal Judge King TD