



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

Appeal Number: PA/00195/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 September 2018**

**Decision & Reasons  
Promulgated  
On 16 October 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**FARHAN [A]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J Gajjar, Counsel, Wilsons Solicitors  
For the Respondent: Ms A Everett, HOPO

**DECISION ON ERROR OF LAW**

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge N M Paul dismissing his appeal against the respondent's decision to refuse him asylum in the United Kingdom.

2. The appellant is a citizen of Pakistan born on 6 March 1993. The basis of his asylum claim is that he is gay, and that he will be persecuted, resulting in probably his murder if he is returned to Pakistan.
3. The appellant was issued with a student visa valid from 30 August 2012 to 31 July 2014. He entered the UK on 17 September 2012. He did not regularise his stay after his visa expired on 31 July 2014. He then made an application for leave to remain based on family and private life on 14 June 2017. He was then issued with an IS96, which was served on him at Croydon on 31 August 2017. He claimed asylum on the same day.
4. The appellant said that he was gay at about the age of 15/16. He did not experience attraction to girls. He became friends with another boy called [S] and gradually they realised that they shared the same feelings and that they were both gay. They would meet secretly at each other's houses when nobody was at home.
5. When he came to the UK he felt he could develop himself here as the UK is an open society. He was regularly in contact with his parents and was under pressure to return to Pakistan to marry a girl of his parents' choice. In January 2013 he informed his parents by telephone that he was gay. His parents were furious and threatened to kill him. They have disowned him. His last contact with them was on 6 December 2014. He produced a newspaper called the Daily Whadat. In it was a short public notice with what was a "disowned deed" by his father.
6. In his asylum interview the appellant said he was a regular attender of gay clubs and submitted many photographs to show that he was involved with either gay demonstrations or what were obviously nightclubs, mixing with other people in what appeared to be an environment for gay men.
7. I was not persuaded by the first ground which argued that the judge erred in finding at paragraph 29 that the delay in claiming asylum damaged the appellant's credibility is not one that can be sustained. I was not persuaded by Mr Gajjar's argument that an oblique reference to his sexuality in a previous human rights application based on his ten-year residence in the United Kingdom can be taken as the same basis upon which he claimed asylum. The human rights claim was based on a 10-year route, whilst the asylum claim was based on his sexuality. The two are not the same.
8. However, I find that the judge made errors in law. Mr Gajjar relied on ground 2 which submitted that from pages 95 to 108, were documents of screenshots and conversations the appellant has had with men on a gay dating app. It was not apparent in the determination that the judge considered this material.
9. The appellant called three witnesses who gave evidence in support of his claim. The judge recorded the evidence of the three witnesses at

paragraphs 14, 15 and 16. The judge at paragraphs 21 and 22 recorded the respondent's submissions in respect of the witnesses. The judge's finding at paragraph 32 in respect of the witnesses was that he did not find them to be compelling witnesses in terms of establishing his homosexuality but were witnesses who were clearly seeking to help him in his claim for asylum. I find that the judge failed to give reasons for his conclusion.

10. It appears from the determination that the judge was responding to the reasons given by the respondent in her refusal letter and supported those reasons or criticisms without engaging with the appellant's evidence at interview and at the oral hearing.
11. For these reasons I find that the judge's decision cannot stand. The judge's decision is set aside in order to be remade.
12. The appellant's appeal is remitted to Taylor House for rehearing by a First-tier Judge other than First-tier Tribunal Judge Paul.
13. No anonymity direction is made.

Signed

Date: 10 October 2018

Deputy Upper Tribunal Judge Eshun