



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/02724/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 11 March 2019**

**Decision &  
Promulgated**

**On 12 April 2019**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**MR M N**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr A Chakmakjian, counsel instructed by Iqbal Law Chambers

For the Respondent: Ms S Cunha, Senior Presenting Officer

**DECISION AND REASONS**

1. The Appellant a national of Pakistan, date of birth 1 May 1990, appealed against the Respondent's decision, dated 9 February 2018 to refuse an asylum and Humanitarian Protection claim to which was added a claim under Article 8 ECHR. The appeal came before First-tier Tribunal Judge I Ross (the Judge) whose decision [D], dated 8 January 2019, rejected the appeal.

2. Permission to appeal was given by First-tier Tribunal Judge Parkes on 6 February 2019. Mr Chakmakjian who did not appear before the Judge stood in for Mr B Hawkin of counsel who had represented the Appellant.
3. A number of points are taken but the first was that the Judge received an application to treat the Appellant as a vulnerable witness with reference to the Presidential Guidance. A copy of that guidance was to be found on the appeal file.
4. The Judge in the [D] made no reference whatsoever to the issue of vulnerability. The Judge also had an expert report of Dr Saima Latif whose extensive qualifications and experience are set out in her report. Of significance were the conclusions that she reached on the Appellant's mental health. In addition to her view that the Appellant was experiencing post-traumatic stress disorder and a major depressive disorder, Dr Latif also concluded that the Appellant was not exaggerating, embellishing or fabrication the account that he had given her; presumably when she was taking his history.
5. The overall conclusions were reached clearly in the context that the Appellant was identifying his sexuality (by sexuality or gender identity) as being part of the basis of his claim. Although in fairness to the Judge, Dr Latif really did not address the extent to which the Appellant had told her of his relationships with men and women whilst in the United Kingdom. As the report noted the Appellant had identified that issue as well as somewhat historical incidents involving his gender identity when in Pakistan many years previously.
6. I concluded that the failure to address the evidence in the round in the assessment of credibility as identified in [D36] undermined the reliability and confidence one can have in the Judge's assessment of the Appellant's credibility.

7. The Appellant had made a variety of claims to remain in the United Kingdom and it was fair to say that the Judge did not correctly recite the entirety of the timeline of claims made by the Appellant before his asylum claim. The issue of the Appellant's gender and sexuality had been raised by him at much earlier times; A matter that appears to have escaped the Judge's attention.
8. Additional grounds raised the point that the Appellant had called evidence from different sources which were, on a fair reading, at least supportive of his claim. In particular two witnesses SC and AL had given evidence of their own sexuality and their willingness to be in the Appellant's company believing him to be bisexual. Their belief at least can be inferred from the evidence that was provided and was material in the overall assessment of the Appellant's claim as to his gender or sexual identity. The Judge had accepted their evidence.
9. I conclude, without I think doing full justice to the arguments raised by Mr Chakmakjian, that the Judge did not approach this matter holistically and did not look at the medical evidence as part of the overall assessment of the Appellant's credibility rather than having formed significant, by itself justified, views about the Appellant's claim but had lost sight of, for example SC and AL's evidence and had then gone on to reject the generality of the claim. I conclude there was an error of law.
10. I find in the context of this case that the Original Tribunal's decision cannot stand.

### **DECISION**

The appeal is allowed to the extent that the appeal will be remade in the First-tier Tribunal

### **DIRECTIONS**

- (1) List First-tier Tribunal two hours. No findings of fact to stand when otherwise agreed in writing by the parties.

- (2) An Urdu interpreter is required.
- (3) List for hearing at Taylor House not before First-tier Tribunal Judge I Ross.
- (4) Any further evidence in connection with the asylum or Article 8 claim to be served not later than ten clear working days before the further hearing. Any further directions to be obtained through a CMRH at Taylor House or on notice to the Resident Judge.
- (5) The anonymity direction made is continued.

**DIRECTION REGARDING ANONYMITY - RULE 14 OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

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 both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 22 March 2019

Deputy Upper Tribunal Judge Davey