

H-SS-V2

Heard at Field House
On 29 March 2004

MC (Ahmadi - IFA- sufficiency
of protection) Pakistan [2004]
UKIAT 00139

IMMIGRATION APPEAL TRIBUNAL

Date Determination notified:

10 June 2004

Before:

**Miss K Eshun – Chairman
HH D Holden**

Between

APPELLANT

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

Representations:

For the Appellant: Mr R Babajee, Counsel instructed by Thompson & Co
For the Respondent: Ms R Brown, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant, a citizen of Pakistan, appeals with leave of the Tribunal against the decision of the Respondent made on 14 March 2002 refusing him leave to enter and asylum.
2. The Appellant left Pakistan on 15 January 2002 using a false passport and arrived in the United Kingdom on 16 January 2002 and claimed asylum immediately.

3. He claimed that he was an Ahmadi Muslim from Sialkot in Pakistan. He faced societal discrimination and harassment as an Ahmadi.
4. There was only one aspect of the Appellant's account which the Adjudicator regarded as implausible and that is the suggestion that in the two incidents in September 2001 and shortly thereafter where shots were fired, he was able to escape without being injured. The Adjudicator concluded that the allegation that shots were fired at him was an embellishment, which the Appellant had added in an effort to bolster his claim.
5. Apart from that, the Adjudicator accepted the Appellant as being credible. He accepted that the Appellant was an Ahmadi and was subjected to harassment. He found however, that the number of incidents with which he was involved over the period from 1993 to his departure was fairly limited. There appears to have been one incident at college when he was beaten up and he claimed that the police would take no action. In 1999 he was arrested by the police and held for three days. He was threatened by Ghulam Haide in February 2000 and was subjected to a fairly minor assault in August 2000. He was arrested in March 2001 and detained for twenty days during which time he was beaten on three or four occasions and then released on payment of a bribe. The Adjudicator accepted that during that period the Appellant continued to preach to non-Ahmadis. There were then the two further incidents, the first of which was on 1 September 2000 when the Adjudicator accepted that he had further trouble with Ghulam Haide, that he was not assaulted in either of these incidents and was able to escape to Daska where he was approached again a short time later, and that he felt he was at serious risk as a result of his continued contacts with Ghulam Haide and his associates. The Adjudicator noted that the Appellant did not report either of the last two incidents to the police and did not seek the protection of the authorities. The Adjudicator noted the Appellant's account that the only incident he reported to the police was when he was assaulted during his time at college. On the other occasions in December 1999 and in March 2001 the Appellant said that the police arrested him. However, the Adjudicator was of the view that if the Appellant had been shot at and there had been attempts to kill him as he claimed, he would have expected him to report these to the authorities.
6. In the light of his findings of fact, the Adjudicator found that the Appellant had a subjective fear of persecution in Pakistan for a Convention reason, namely his religion. He stated that it has long been settled that simply being an Ahmadi does not engage the Refugee Convention. The objective evidence suggests that there are a large number of Ahmadis in Pakistan and that many of them are able to live peacefully without encountering the difficulties, which the Appellant claims to have encountered.

7. The Adjudicator accepted that if returned to Pakistan the Appellant would continue to preach no matter how dangerous the consequences of that action may be. Counsel for the Appellant referred to the Adjudicator to the case of Iftikhar. The Adjudicator found that the Appellant in this case was in a different position from the Appellant in Iftikhar. In Iftikhar the Appellant was on a daily basis subjected to harassment and a degree of physical violence including being spat at and stones being thrown at him, and he and his family were subjected to the most appalling treatment. His house was attacked and burnt down on at least one if not two occasions. He found that the treatment to which this Appellant had been subjected was not as serious and did not think that this case could be compared with that of the Appellant in Iftikhar.
8. The Adjudicator then looked at whether the Appellant could relocate within Pakistan. The evidence was that following the incident on 1 September 2001 he moved to Daska, which is only about fifteen miles from his home village. He then went to Shadra and from there to Lahore where he stayed with a friend of his father's and during this period was not traced by Khatme Nabuwat. The Appellant had said in oral evidence that he could not go to Rabwah as it was not safe to do so. The Adjudicator looked at the Tribunal decisions in Mansoor Ahmed and Mahmood Ali Mirza in which the Tribunal had reviewed the objective evidence in detail and had come to the conclusion, not only that it would be safe for the Appellants in those cases to relocate to Rabwah, but that it would not be unduly harsh for them to do so. Having considered the objective material that was before him, the Adjudicator found that being a single young man, there was no reason why the appellant could not relocate to Rabwah. If he wished to continue preaching then he could do so without there being a reasonable likelihood that he would be ill-treated by members of Khatme Nabuwat.
9. At the hearing Counsel relied on the grounds of appeal, which highlighted three areas where it was argued the Adjudicator erred. The first was that the Adjudicator's conclusion that the shooting incidents were an embellishment, was inconsistent with the Adjudicator's own overall favourable conclusions as to the Appellant's credibility, and with the background evidence of the extreme responses to preaching by fundamentalists in Pakistan. The second was in respect of the Adjudicator's conclusion, that the Appellant had not sought police or state protection in any incident save the first and failed to consider the Appellant's reasons as to why he failed to report these two subsequent incidents. The third argument was in respect of the Adjudicator's finding that the Appellant has a viable option of internal flight, particularly to Rabwah.

10. With regard to the first two issues, the Tribunal took the view that whether or not the Appellant was shot at and escaped and whether or not he reported the incidents to the police, these matters did not enhance the Appellant's claim. This is because of the Adjudicator's finding that the Appellant did have a well-founded fear of persecution in his home area. That was where those incidents occurred.
11. Therefore the issue that we have to consider is whether the Appellant has a viable internal flight option, in particular to Rabwah.
12. The grounds of appeal which Counsel relied on said that the Appellant would seek to adduce further evidence not previously available in relation to the activities of the fundamentalist groups, particularly Khatme Nabuwat, in Rabwah. Counsel drew our attention to an Amnesty International Report of May 2001. The report stated that in the Punjabi particularly, militant anti-Ahmadi bodies have sprung up. The representative of a new Mujahideen Force which was formed in the summer of 2000, was quoted as saying that the "Sipah Khatam-e-Nabuttwat has been established to block the illegal activities of Ahmadis. The government's unwillingness or inability to control militant Islamist groups targeting minorities was further evident in early 2000 when the Resident Magistrate informed the Ahmadiyya community in **Rabwah** that "about 20 Afghanistan trained boys belonging to different Jihadi organisations had a meeting to start a campaign to assassinate Ahmadis. They boys had come to **Rabwah** to eliminate Ahmadis."
13. Counsel also cited paragraph 6.68 of the October 2003 CIPU Report, which states that Ahmadis are often targets of religious intolerance, much of which is instigated by organised religious extremists. Ahmadi leaders claim that militant Sunni Mullahs and their followers sometimes stage marches throughout the streets of Rabwah. Backed by crowds of 100 to 200 persons, the Mullahs reportedly denounced Ahmadis and their founder, a situation that sometimes leads to violence. The Ahmadis claimed, that bullies generally are present during these marches, but do not intervene to prevent trouble. That was about the only evidence Counsel could rely on in relation to the activities of the fundamentalist groups in Rabwah.
14. Ms Brown relied on the case of **198 A (Pakistan)** in which the Tribunal had rejected the notion that simply because an Ahmadi preaches, he is at risk of serious harm. In response Counsel relied on the Tribunal decision of **Razzaq** heard on 20 December 2001 in which the Tribunal were not persuaded, in the light of the objective evidence before them, that it was likely that Rabwah was a safe city as far as that particular Appellant was concerned.

We note however, that the objective information the Tribunal relied on in reading its conclusion about **Rabwah**, covered the period 1984 to April 1996. Furthermore, although **Razzaq** had, like this appellant, also suffered attacks and harassment, the Tribunal found that he was not just an ordinary Ahmadi. His father was a leading elder in the Ahmadi community, which does not apply to our appellant. **Razzaq** had reported the attacks on him to the police but this appellant did not. **Razzaq** had attempted to relocate on many occasions without success. This appellant had problems in Dasha but not in Lahore. In the circumstances we find that **Razzaq** cannot be applied to this appellant.

15. We have taken into consideration the objective evidence that a new Mujahideen Force was established in 2000 which has as its main objective, the elimination of Ahmadis. There was however no objective evidence to say that this force is actively pursuing its objective and is succeeding. The latest objective evidence from the CIPU merely indicates that militant Sunni Mullahs and their followers sometimes stage marches throughout the streets of **Rabwah**, which sometimes leads to violence. This suggests to us that the threats made by the Mujahideen Force has not materialised. In the circumstances we agree with the Adjudicator that the incidents of violence in **Rabwah** against Ahmadis are not large scale or endemic and fall short of demonstrating that the authorities there are generally unable or unwilling to afford local Ahmadis effective protection. We also rely on the case of 198A (Pakistan) in which the Tribunal rejected the notion that simply because an Ahmadi preaches he is likely to be at risk of persecution. We also rely on **Mirza** in which the Tribunal held that as **Rabwah** is a city predominantly occupied by Ahmadis, all levels of authority would include many persons who are themselves of the Ahmadi faith, including members of the police force. In those circumstances we find that it will be the rare case in which an Ahmadi can establish that the authorities in **Rabwah** are unable or unwilling to offer him a sufficiency of protection.
16. Therefore, on the totality of the evidence we find that it would not be unduly harsh to expect the Appellant to relocate to Rabwah, and that he would be afforded a sufficiency of protection in Rabwah. Accordingly we uphold the Adjudicator's determination and dismiss the Appellant's appeal.

Miss K Eshun
Vice President