

SPECIAL IMMIGRATION APPEALS COMMISSION

TRS/25/2009

The Royal Courts of Justice  
Strand  
London

Tuesday, 6<sup>th</sup> October, 2009

BEFORE:

THE HONOURABLE MR JUSTICE MITTING  
NM  
(SC/87/2009)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

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MR R WASTELL (instructed by the Treasury Solicitor) appeared on behalf of the Respondent.

The Appellant was not present and was not represented.

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JUDGMENT

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MR JUSTICE MITTING:

1. By letter dated 15<sup>th</sup> June 2009, the Secretary of State gave to the appellant notice of his intention to deprive him of his citizenship under section 40 of the British Nationality Act 1981. The basis for the decision was that he was assessed to be a senior and active member of Lashkar-e-Taiba, that he had been involved in fundraising for that organisation and was, and remains, a close associate of a former Emir and a senior current member of the organisation.
2. The decision was said to have been made on grounds of national security. Accordingly, any appeal against the decision is made to this Commission.
3. It is undisputed that he was served with the notice on its date, 15<sup>th</sup> June 2009, at the British High Commission in Islamabad.
4. His right of appeal to the Commission was exercisable under section 2B of the Special Immigration Appeals Commission Act 1997. The time limit for giving notice of appeal is prescribed by Rule 8(1)(b)(ii) of the Special Immigration Appeals Commission Procedure Rules 2003. That

sub-rule provides that notice of intention to appeal must be given not later than 28 days after service of the notice of the decision against which the appeal is brought. His notice, therefore, was required to be served by 13<sup>th</sup> July 2009. It was not, in fact, served until 25<sup>th</sup> August 2009, six weeks later.

5. The Commission has the power to extend the time limit for giving notice of appeal, but only in the circumstances specified in sub-rule 8(v), which provides "The Commission may extend the time limits in this Rule if satisfied that, by reason of special circumstances, it would be unjust not to do so".

6. The appellant has applied, in his terms, "for the condonation of delay". I will treat that as an application to extend time under sub-rule 8(v).

7. The grounds given are: "2. Unfortunately, the petitioner fell ill in Pakistan and he was advised complete bed rest. Hence remained confined to the bed during this period and remained under constant treatment.

"3. But, having felt relieved, the petitioner immediately filed this appeal without any further loss of

time.

"4. That the petitioner, due to infirmity/sickness, had sufficient cause for not preferring this appeal in this honourable forum within the limited period as the circumstances were beyond his control".

8. He has provided to the Commission and to the Secretary of State a document headed "Outdoor Ticket. Federal Government Services Hospital, Islamabad". The document appears to be genuine and I have no reason to doubt its authenticity. Accordingly, I do not approach it with the scepticism sometimes required of documents produced from Pakistan. It is in a form readily recognisable to users of hospitals worldwide before the creation of computer printed documents. It is handwritten. The handwriting, as is not unusual in medical circles, is difficult to read, but, ultimately, in essentials clear. It demonstrates that, on 29<sup>th</sup> June 2009, the appellant complained of backache and had a limited range of movements in his left leg. Straight-leg raising was limited to 60 degrees by comparison with 90 degrees in the right leg. He was prescribed medication. Although I cannot fully understand the words indicating what medication was supplied, I have no reason to believe that it did not include either anti-inflammatory drugs or

painkillers, or both. He was prescribed complete bed rest.

9. He was seen again on 8<sup>th</sup> July 2009. The note reads that he was reviewed. He was "improving" and he was required to revisit after two weeks. He did so on 27<sup>th</sup> July 2009, when the note, in so far as it is relevant and legible, reads "Better. SLR/leg raising, right, 90 degrees; left, 90 degrees. Tenderness. Advised exercises ..."
10. He was seen again on 1<sup>st</sup> August 2009 and was said to be "much improved". He was advised physiotherapy, exercises, back care and to revisit after, perhaps, two weeks. He was advised to have a hard bed.
11. He was seen again on 13<sup>th</sup> August, when he was again described as improved. Straight leg raising in the right and left legs was again 90 degrees. It seems that he was still prescribed some medication, but it was noted that he could resume daily routine work. There is no indication that he was seen again thereafter.
12. Those notes demonstrate that by 22<sup>nd</sup> July he was, in the words of the surgeon or doctor making the note, "better", that his straight leg raising was the same in both legs and reasonably full and that he was advised exercise. As

of that date, therefore, he was, in my judgment, fully able to draft and put in a notice of appeal. That note belies his assertion in his application for the condonation of delay that he filed this appeal without further loss of time. If a notice of appeal had been received by the end of July, it would have been difficult, justly, to refuse to extend time, given the fact that he did suffer from back problems in late June and early and mid July, but nothing in the medical note that he has produced suggests that he was in any way inhibited from preparing and putting in his notice of appeal by the end of July, at the latest. He was, therefore, on that analysis, very nearly four weeks late in giving his notice of appeal.

13. The notice of appeal denies the basic allegation that he was an active member of the LET, but does little more than that.

14. It is not disputed that deprivation of citizenship would not make him stateless, so that the Secretary of State was not prohibited from serving notice of intention to deprive him of citizenship. It seems, and I have no reason to doubt, that he was, and remains, a citizen of the Republic of Pakistan. His British citizenship resulted from intermittent and interrupted periods of

residence in the United Kingdom, interspersed with occasional trips of some length back to Pakistan. His family is, I infer from his notice of appeal, in Pakistan. The notice of appeal does not suggest that he would be caused any hardship, beyond finding it more difficult to re-enter the United Kingdom, if he were deprived of citizenship and, beyond the denial that I have recited, he gives no substantial ground for challenging the Secretary of State's decision.

15. In those circumstances, it seems to me that two factors weigh heavy in the balance in determining whether, first, there are special circumstances and, second, it would be unjust not, by reason of them, to extend the time limit. The only special circumstance relied on by the appellant is his medical condition. I am satisfied that it did not prevent him from putting in his notice of appeal. It does not, therefore, amount to a relevant special circumstance. Even if it had done, given the opportunity that he had for putting in his notice of appeal within a short time after the time limit expired, given the apparent lack of hardship to him and given the lack of severe consequences to him resulting from the decision, I would not have been satisfied that it would be just to extend the time limit or, in the words of the Rule, I am not satisfied that it would be unjust not to extend the

time limit.

16. Accordingly, for both of those reasons, I reject this application to extend the time limit for appeal. It follows, notice of appeal not having been given in time, that this appeal is struck out.

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