



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

Appeal Number: PA/00569/2018

THE IMMIGRATION ACTS

**Heard at Bradford
On 30 January 2019**

**Decision & Reasons Promulgated
On 11 February 2019**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

TAHSEEN LIAQUAT
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance.

For the Respondent: Mr Diwnycz - Senior Home Office Presenting Officer.

ERROR OF LAW FINDING AND REASONS

1. The appellant appeals with permission a decision of First-Tier Tribunal Judge Bradshaw promulgated on the 6 June 2018 in which the Judge dismissed the appellant's appeal on protection and human rights grounds.
2. Neither the appellant nor her representative attended the hearing. A final tannoy call was made at 11 AM by the Tribunal Clerk to which there was no response. No explanation for the absence was provided

and no application for an adjournment or explanation for why the hearing should not proceed was received. Notice of date time and venue of the hearing was sent by first-class post on 7 December 2018 and I am satisfied that there has been proper service in accordance with the procedure rules. There was no evidence of adverse weather conditions preventing either the appellant travelling from Dewsbury in West Yorkshire to Bradford or her London based representative or locally instructed agent attending. In all the circumstances, I am satisfied it is appropriate to proceed to hear the appeal in the appellant's absence.

Background

3. The appellant is a female citizen of Pakistan born on 15 April 1986 who entered the United Kingdom lawfully as a student with a Visa valid to 30 January 2016. On 13 July 2017 the appellant claimed asylum which was refused by the respondent on 28th December 2017 against which the appellant appealed to the First-tier Tribunal. The Judge notes the appellant fears a nonstate actor namely her husband if she is returned to Pakistan.
4. The Judge sets out details of the appellant's claim from [16] before setting out findings of fact from [39]. The Judge finds that the appellant's credibility is damaged for the reasons set out from [44]. At [51] the Judge records she did not find the appellant's explanation for giving misleading information to the respondent to be reasonable. The appellant is an educated woman, to master's degree level. At [54] the Judge refers to a number of inconsistencies detailed in the refusal letter which it was not found necessary to repeat and expresses disagreement with the submission of the appellant's advocate that the appellant has been open and honest in her evidence. The Judge records deficiencies and inconsistencies in documents relied upon. At [71] the Judge writes:

“71. There is no requirement that the appellant corroborates her own evidence, but I find it is significant that she has produced no written evidence at all about the threats made to her family when she could nor has she, as already mentioned, produced written evidence of her marriage. She has merely asserted that her father cannot continue to support her as he had previously done, that her old job is no longer available; she cannot transfer; she cannot as a highly educated and a woman with experience of work, get a job in the private sector and that private sector jobs are not well paid. I note that despite the threats made to the family, no harm has been carried out to her parents.”
5. The Judge considers the respondent's country information of guidance of Pakistan “Women fearing gender-based harm/violence” and the country guidance case of SM. At [74] the Judge agrees with the respondent's submissions that the alleged abuse upon which the appellant based the claim did not happen and that there is no genuine subjective fear of her husband.

6. From [65] the Judge considers the claim in the alternative as if the claim was accepted. The primary finding of the Judge is that the claim is not accepted making this section obiter. The Judge considers evidence of sufficiency of protection and internal relocation not finding the appellant's claim her husband would find her if she did relocate to be credible.

7. At [81 - 84] the Judge finds as follows:

“81. Having considered the evidence in the round and given the large measure of inconsistencies, contradictions and general lack of credibility in the appellant's account I find that she has not established that there is a real risk of persecution for a Convention reason. I do not find that the appellant is a refugee.

82. I do not find that the appellant has demonstrated that she is at risk of serious harm on return to Pakistan such that she qualifies for humanitarian protection.

83. In light of the above findings I do not find that there is a real risk that there will be a breach of Articles 2 or 3 if the appellant is returned to Pakistan.

84. So far as Article 8 private life rights are concerned whether under the Rules or outside the Rules, there is no cogent evidence to suggest that the decision to remove would undermine her physical and moral integrity. Contacts made in the UK can be continued using modern methods of communication. She has provided scant details of any private life in the UK save for her studies not (sic) has she adduced any cogent evidence that there would be very significant obstacles to her integration into Pakistan on return; quite the reverse.”

8. The appellant sought permission to appeal on a number of grounds which was granted by a Designated Judge of the First-Tier Tribunal in the following terms:

“The Appellant, a Pakistani born on 15 April 1986, seeks in time permission to appeal the decision of Judge of the First-Tier Tribunal Bradshaw promulgated on 6 June 2018 dismissing her appeal against the Respondent's decision of 28 December 2017 to refuse her claim for international surrogacy protection based on her fear of domestic violence.

The grounds are perhaps unnecessarily lengthy. Those asserting the Judge failed to apply the appropriate standard of proof are misconceived: see paragraphs 9 and 10 of her decision.

The Respondent's decision has been based on finding the Appellant's account of domestic violence not credible but had not challenged the existence of her marriage. The Judge's decision does not take this into account and does not refer to any specific submission for the Respondent at the hearing withdrawing this concession: see for instance paragraph 57 and 71. The Respondent did not raise the issue of internal relocation in the reasons for refusal. There is no indication that internal relocation

was raised in the course of submissions for the Respondent. Properly speaking, the Respondent should raise the issue, at least put the Appellant on notice. The grounds assert the Judge failed when considering relocation to take account of the fact that she and her husband are cousins and so relocation to her parental home would still leave her at risk from her estranged husband and his family.

Paragraph 54 refers to inconsistencies alleged in the reasons for refusal but the Judge expressly states she will not address them. The decision does not disclose whether and how the Appellant sought to address them, if at all. The grounds assert that at paragraph 65 the Judge failed to take into account that the document mentioned was a draft and indeed other than it being a poor copy fails to give any reason for giving little or no weight to it is mentioned in paragraph 70. In giving little weight to the wage slips referred to at paragraph 67, the Judge acknowledges that they are full and complete and makes a finding that they may not have been lawfully obtained but these are not reasons to give little or no weight to them.

At paragraph 72 and 73 the Judge notes the various difficulties which women face in Pakistan identified by the respondent's country information Guidance and in SM (lone women-ostracism) Pakistan CG [2016] UKUT 0067 (IAC). Paragraph 74 she states she agrees with the Respondent which she was required to remake the decision under appeal and give reasons for her conclusion, not simply to agree or disagree with the Respondent.

At paragraph 76 she finds that there is a sufficiency protection for in Pakistan and then details the background evidence which the Appellant has produced. The only reasons for dismissing it as appear to be those at paragraph 77 and 78 which simply referred generically to external evidence without any sources being given. There is no explanation why the area of concern for women in Pakistan identified in paragraph 72 and 73 are not applicable to the Appellant circumstances.

In summary many of the grounds amount to a claim the Judge has failed to give due consideration to the evidence and proper reasons for her treatment of it, as for instance identified in ground 17. Most of the specific grounds disclose arguable errors of law or arguable unfairness and permission to appeal is granted.

I should add the grant of permission is no indicator of the eventual success of the application or appeal."

9. The Secretary of State has filed a Rule 24 response dated 6 September 2018, the relevant parts of which are in the following terms:
 - “3. It is submitted that the Judge has made findings on the credibility/return issues from p39-84 of the determination.
 4. It is submitted that clear reasons have been given on the relevant issues including the finding that the appellant misled the respondent (p 51).

5. Clear reasons are given at p70 of the determination in relation to the documents. Internal relocation a sufficiency protection was considered by the Respondent in the RFRL “in the alternative”. (p75).
6. Read holistically this determination makes complete sense the Judge considered all of the relevant issues in coming to his conclusions. Thus any errors are not material to the outcome.
7. The respondent opposes the appellant’s appeal. In summary, the respondent will submit *inter alia* that the Judge the First-Tier Tribunal directed himself appropriately.”

Error of law

10. The Judge sets out the core findings between [39 - 74] where the Judge, having considered the evidence with the required degree of anxious scrutiny, sets out adequate reasons in support of the findings made leading to that at [74] that insufficient evidence had been provided to establish that the alleged abuse occurred by the appellant of her husband. This finding has not been shown to be infected by arguable legal error.
11. From [75] the Judge sets out findings in the alternative as if the appellant’s claim had been accepted. As the primary finding is that the claim was not accepted this section must be obiter in that it is the Judge's expression of opinion set out in the written judgement, but not essential to the decision and therefore not legally binding as a precedent. The challenge in the grounds therefore to the issue a sufficiency protection and/or internal relocation and the grant of permission to appeal in relation to both aspects has no arguable merit for the Judge’s primary finding is that the core claim is not credible and there is therefore no reason why the appellant cannot return to her home.
12. The Judge considered relevant case law and it has not been made out the findings are outside the range of those reasonably available to the Judge on the evidence. In particular it is not made out that is appropriate for this determination to be set aside or for the Upper Tribunal to interfere any further in relation to this matter.
13. The burden of establishing any material legal error falls upon the appellant and she has failed to discharge the same.

Decision

- 14. There is no material error of law in the Immigration Judge’s decision. The determination shall stand.**

Anonymity.

15. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order pursuant to rule 14 of the Tribunal Procedure
(Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated the 30 January 2019