



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-002424

First-tier Tribunal No: PA/56430/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 24th of December 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE LEWIS

Between

SF
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms K McCarthy of Counsel

For the Respondent: Mr E Terrell, Senior Home Office Presenting Officer

Heard at Field House on 31 July 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. This is an appeal against a decision of First Tier Tribunal Judge Byrne dated 26 April 2024 dismissing on protection and human rights grounds the Appellant's appeal against a decision of the Respondent dated 1 September 2023 refusing a protection claim.
2. The Appellant is a citizen of Pakistan. Her personal details, and the background to her appeal, are set out in the documents on file and are known to the parties. In keeping with the anonymity direction that has previously been made in these proceedings (and is hereby continued), I do not rehearse the personal details and full background here.
3. Suffice for the moment to note the following:
 - (i) The Appellant's husband and three daughters are dependents in her protection claim.
 - (ii) The Appellant's claim for protection is rooted in the behaviours of her husband's family and in particular their adherence to a strict interpretation of Islam in which women should not be educated or work, and girls should be entered into arranged marriages upon reaching puberty. It is said that not only has the Appellant been a victim of the behaviours of her in-laws, but also that her father-in-law has pressed for her daughter to be entered into an arranged marriage. The 'Narrative of the Claimant's Claim' is set out in some detail at paragraphs 15-27 of the Decision of the First-tier Tribunal.
4. At paragraph 29 of the Decision of the First-tier Tribunal, the Judge noted the Respondent's acceptance of the key elements of the Appellant's account - "*Your father-in-law has threatened to kill you, kidnap your daughter and force her into underage marriage*". The Judge goes on to note that in the course of proceedings the Respondent seemingly resiled from the position stated in the 'reasons for refusal' letter ('RFRL'), with it not being apparent why this was the case: see paragraphs 29 and 30. Nonetheless, the Judge found that the Appellant "*has established the material fact of her claim*" to the requisite standard (paragraph 31).
5. The Judge also observed at paragraph 29 that the basis of the Respondent's rejection of the Appellant's claim as set out in the RFRL was that she had not established the requisite level of risk, and/or there would be sufficiency of state protection, and/or an internal relocation alternative was available. Similarly, in determining the appeal against the Appellant the Judge found: that it had not been shown that there would not be adequate state protection (paragraphs 34-37); and internal relocation would be available to the Appellant and her family (paragraph 38-42). The Appellant's appeal was refused on protection grounds accordingly (paragraphs 43-44).
6. Consideration was also given to Article 8, including with particular reference to paragraph 276ADE(1) of the Immigration Rules. The appeal was also dismissed on Article 8 grounds for the reasons set out at paragraphs 45-63 of the Decision.

7. The Appellant applied for permission to appeal to the Upper Tribunal, which was granted on 21 May 2024 by First-tier Tribunal Judge Dainty. Permission was granted in respect of three grounds which challenged the decision on the protection claim; permission to appeal was refused in respect of a fourth ground, challenging the decision in respect of Article 8. The reasons for granting permission to appeal helpfully summarise the bases of challenge and the bases of the partial grant of permission:

“2. The first ground is that the judge made a legal error in the assessment of sufficiency of protection, in that the very fact of past persecution (and implicitly state protection having failed in the past) is relevant, contrary to para 37 of AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC). Secondly it is said as regards internal relocation that it was an error not to make findings as to whether the family members could locate A (in view of there being no dispute that they were well connected) as well not considering the expert’s opinion that her father and brother in law would be able to trace her. It is further said that in regard to these points there was a failure to consider background evidence cited in the written submissions. Finally it is said that the judge erred when considering art 8 in not considering the stigmatisation of A and the impact of the family breakdown between her husband and his family.

3. Ground 1 is arguable by reason of the fact that the findings arguably run counter to the decided CG case of AW. It is arguable that there is insufficient consideration of the realistic likelihood of the persecutors both wanting and being able to locate A by reference to their status and connections – I therefore find that ground 2 also discloses an arguable error of law. It follows that ground 3 is also arguable since grounds 1 and 2 are arguable and taking ground 3 at face value there are materials before and specifically highlighted to the judge that have not been analysed. No permission is given in relation to ground 4. The grounds do not highlight that these points were raised with the judge (the written closing submissions devote very little to article 8 matters). The judge has carried out a detailed analysis of very significant obstacles and article 8 outside the rules.”

8. The Respondent has filed a Rule 24 response dated 6 June 2023 resisting the appeal.

Consideration of the Challenge

Ground 1

9. As a preliminary observation I note that the Judge states at paragraph 32 *“I find that the appellant has established a well-founded fear of persecution”*. It seems to me that in context this must be understood not as a determinative finding on the protection claim, but as a recognition both of a subjective fear and of a real hostility on the part of the Appellant’s in-laws. I do not understand the Appellant, through her

representatives, to adopt any different position in respect of the expression of a finding of a well-founded fear of persecution at paragraph 32. It is against this background that the Judge went on to consider the issues of state protection and internal relocation.

10. I do not accept that there is any substance to those aspects of Ground 1 that argue that the First-tier Tribunal Judge was in error in disregarding paragraph 339K of the Immigration Rules and/or otherwise disregarding the history of persecutory treatment. The Judge accepted the past treatment: there is nothing to indicate that he has lost sight of such matters when considering sufficiency of state protection; indeed, he only went on to consider the sufficiency of state protection because he had found in substance that there was a well-founded fear of persecution - i.e. that there was a continuing threat.
11. However, in this context it is to be noted that the past was not a good indicator as to the future availability of state protection because the Appellant - whether on her own or through her husband - had at no point attempted to avail herself of state protection, instead opting to move away from the husband's family.
12. In all such circumstances there is nothing of material substance to the pleading that the Judge "*wrongly misse[d]*" the passage at paragraph 37 of **AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)** - helpfully quoted at paragraph 9.4 of the Grounds.
13. Insofar as it is also pleaded that the failure to follow the country guidance in **AW** amounted to an error of law - with reference to the guidance in **Roba (OLF - MB confirmed) Ethiopian CG [2022] UKUT 0001 (IAC)** - the Grounds are misconceived because the references in **AW** to the relevance of past persecution and the substance of paragraph 339K of the Rules do not constitute any aspect of possible country guidance set out therein. More particularly, and in any event, **AW** is not a 'country guidance' case - albeit it is a reported case. If any country guidance might be gleaned from it, it is perhaps only that it follows the earlier country guidance case of **AH (Sufficiency of protection, Sunni extremists) Pakistan CG [2002] UKIAT 05862** that it cannot be said that there is a general insufficiency of state protection.
14. In my judgement Ground 1 does not otherwise impugn the reasoning of the First-tier Tribunal at paragraphs 34-37.

Ground 2

15. As acknowledged at the hearing, Ground 2 cannot avail the Appellant as a freestanding ground of appeal if Ground 1 fails. The issue of internal relocation does not arise if there is adequate state protection.

Ground 3

16. I accept the Respondent's submission that the pleading at Ground 3 in substance amounts to an attempt to reargue the case that was before the First-tier Tribunal, and does not establish an error of law.
17. It is manifestly the case that the Judge took into account country information evidence that was before him, including the Respondent's CPIN reports and the Appellant's country expert's report: see paragraphs 35 and 36. The Judge also expressly stated that he had had regard to the post-hearing written submissions: see paragraph 10. Moreover, the Judge gave specific consideration to the particular circumstances of the Appellant and her family, addressing directly the parts of the Appellant's narrative where she had illustrated her in-laws influence, and contrasted this with her husband's experience of being asked to pay a bribe before the police would take a report of a stolen car: see paragraphs 21, 22 and 37.
18. In this context and generally it is also to be noted that the Judge made specific reference to the CPIN 'Women Fearing Gender Based Violence' as informing his acceptance of the Appellant's credibility, and the engagement of a Refugee Convention reason: see paragraphs 28 and 33. I do not accept that the Judge somehow lost sight of this report when evaluating the country information in the context of the sufficiency of state protection.
19. Ms McCarthy took some considerable time and care to take me to various passages in the country intimation that she contended supported the Appellant's case - including in particular in relation to the risk of child marriage. In this context she necessarily acknowledged that there was legislation in place in Pakistan to protect minors in this regard; however, she sought to emphasise the various references to instances of such marriages still taking place - e.g. section 7.2 - 'Child and forced marriage' - of the 'Women Fearing Gender Based Violence' CPIN. Ms McCarthy noted that such materials were referenced in the written submissions made, with the leave of the Judge, subsequent to the hearing.
20. Whilst it is to be acknowledged that specific passages identified in the written submissions, and emphasised before me, are not expressly referenced in the Decision, I find that there is nothing in such passages that materially undermines the core essence of the Judge's reasoning in respect of sufficiency of protection: there is in place in Pakistan legislation designed to, and state agencies tasked with, protecting women against violence and children against forced marriage; notwithstanding the influence of the Appellant's in-laws, such state protection would be available to the Appellant and her family because the evidence does not establish that the Pakistan police would not respond appropriately to complaints made in relation to crimes as serious as threats to abduct and kill - particularly bearing in mind the education and status of the Appellant's husband.

21. In all the circumstances I accept the submission set out at paragraphs 12-13 of the Rule 24 response: it was not incumbent upon the Judge to address each and every passage of the background material expressly relied upon by the Appellant; the Judge adequately identified and resolved key conflicts in the evidence, providing reasons in clear and brief terms for his findings and ultimate conclusion, consistent with the observations in **Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC)**.
22. Because, in the absence of any successful challenge to the First-tier Tribunal's evaluation of the sufficiency of state protection, arguments in respect of internal relocation cannot avail the Appellant, it becomes unnecessary to consider those aspects of Ground 3 focused on internal relocation.
23. In all such circumstances I find that the Appellant has not made out the challenge to the Decision of the First-tier Tribunal.

Notice of Decision

24. The decision of the First-tier Tribunal contains no material error of law and accordingly stands.
25. The appeal of SF remains dismissed.

I. Lewis
Deputy Judge of the Upper Tribunal
(Immigration and Asylum Chamber)
15 December 2024