



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

Appeal Numbers: AA/09461/2014
AA/09462/2014
AA/09463/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 10 April 2015**

**Decision & Reasons Promulgated
On 22 April 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHAERF

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

KAK

**+ 2 MINOR CHILDREN
(ANONYMITY DIRECTION MADE)**

Respondents

Representation:

For the Appellant: Mr L Tarlow of the Specialist Appeals Team

For the Respondent: Mr I Macdonald QC, instructed by Ferani Javid Taylor,
solicitors

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure
(Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Respondents are granted anonymity. No report of these proceedings shall directly or indirectly identify them individually or as a member of their family. This direction applies both to the Appellant and to the

Respondents. Failure to comply with this direction could lead to contempt of court proceedings.

DECISION AND REASONS

The Respondents

1. The Respondents, to whom I shall refer as the Applicants, are a mother and her two minor children. All three are citizens of Pakistan. On 1 June 2014 they arrived with entry clearance as family visitors. On 16 July 2014, before expiry of their leave, they claimed international surrogate protection on account of their fear on return to Pakistan of persecution or ill-treatment because the lead Applicant, the mother, being the widow of an officer in the armed forces who had been killed in a terror attack on the base where he worked and held a senior and important position would be at risk. He had also been prominent in his local Shi'ite community. The mother herself had worked on the same base as a civilian doctor.
2. While in the United Kingdom she had received a communication from an officer colleague of her late husband stating he had learned her late husband had been followed for six months before he had been murdered and described in brief the manner in which he had been followed. In the light of this information the lead Applicant realised she had been followed in the months before she had left Pakistan and subsequent to the death of her husband. This had triggered her claim for asylum for herself and her children.

The Original Decision and Appeal

3. On 27 October 2014 the Appellant (the SSHD) refused the Applicants' claims for international surrogate protection and proposed directions for their removal, presumably to Pakistan although the notice of decision is silent on the removal destination. Reasons for the decision were given in a letter of the same date (the reasons letter). The SSHD set out the basis for the claim and the Applicants' immigration history. The SSHD accepted the lead Applicant's late husband had been an officer in the Pakistani Armed Forces and had been killed but doubted the claim that he had been killed by extremists as, although she asserted the armed forces had initiated an investigation and reported the matter to the police, there had been no results from the investigation and no evidence to support her claim that her husband had been followed in the months before his murder. Little weight was given to various documents acknowledging the violent death of the lead Applicant's husband because the SSHD could not trace the forces which issued the various documents: see reasons letter para.39. At para.40 the SSHD noted the inconsistencies between the names given by the lead Applicant for her husband and the names given in the press reports and the inconsistency between their respective accounts of the number of shots which had been fired. The SSHD rejected the lead Applicant's claim that her husband had been killed by extremists.

4. The SSHD noted there was no evidence to support the lead Applicant's claim that subsequent to the death of her husband she had been followed and so also rejected this aspect of her claim.
5. The SSHD considered the Applicant as a Shia Muslims could return to Karachi and would not be at risk. The lead Applicant had not given sufficient information or explanation why she should consider herself at risk from extremists. She could return to Pakistan and her previous employment in her home area or elsewhere. Reference was made to the background information whether there was a sufficiency of protection available from the Pakistani authorities and referring to the judgment in *Januzi v SSHD [2006] UKHL 5* and *AH (Sudan) v SSHD [2007] UKHL 49* concluded that the Applicants could relocate within Pakistan. The lead Applicant was in good health, spoke Urdu and English, had spent her life in Pakistan and had previously lived in Lahore, Islamabad and Karachi and, further, was a qualified medical doctor and could return to a civilian post within the armed forces' medical services.
6. The SSHD went on to consider whether the Applicants' claim could be based on their private and family life and looked at Appendix FM of the Immigration Rules and was satisfied that none of them met the requirements of the Rules and that there were no exceptional circumstances which would warrant consideration whether to grant them discretionary leave outside the Immigration Rules.
7. On 12 November 2014 each of the Applicants lodged notice of appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002 as amended. Leaving aside the formulaic or generic grounds, the grounds refer to the influence of Islamic extremist groups in Pakistan, the trauma and stress suffered by the minor Applicants and the vulnerability of the family on return to Pakistan. The grounds stated that further grounds might be submitted but none have.

The First-tier Tribunal's Decision

8. By a decision promulgated on 13 January 2015 Judge of the First-tier Tribunal Juss allowed the appeal of each of the Applicants with reference to the Refugee Convention.
9. The SSHD sought permission to appeal on the grounds that the Judge had not given reasons for finding the lead Applicant's late husband to have been a prominent Shi'ite and without such a finding there was no reason to find that the Applicants on return to Pakistan would be at greater risk than any other Shi'ite. Further, the Judge had not given adequate reasons to support his finding that the lead Applicant's husband had been murdered on account of his religion and not because he was an officer in the armed forces.
10. On 5 February 2015 Judge of the First-tier Tribunal Holmes found there was an arguable error of law in the Judge's decision because he had failed properly to identify why the Applicants would be at risk on return and to identify the reason for the killing of the lead Applicant's husband, whether

it was his rank and job in the armed forces or because of his faith, or both. Further, the Judge had not identified why the Applicants remained at real risk of being targeted by Islamic extremists, following the death of the lead Applicant's husband. It was arguable he had failed to show whether his decision to allow the appeal was based on the real risk to all Shi'ites or to family members of the military or because of the individual circumstances of the Applicants. The Judge had also needed to consider whether it would not be unduly harsh for the Applicants to relocate within Pakistan.

The Error of Law Hearing in The Upper Tribunal

11. The lead Applicant attended but in the event took no part in the proceedings. Mr Tarlow for the Appellant was missing the expert report of Uzma Moeen of the Asian Legal Advice Service at Appendix 2 of the Applicants' bundles submitted to the First-tier Tribunal. This was an important document since it formed the substantial part of the reasoning given by the Judge for his decision. A copy was made available to him and he was given time to consider it.
12. Resuming the hearing, Mr Tarlow relied on the grounds for permission to appeal. The Judge had erred in finding there was a nexus between the circumstances of the Applicants and a Refugee Convention reason. The Judge at para.24 of his decision had addressed the death of the lead Applicant's husband and found it was connected with his position as an officer in the armed forces and his particular military role as well as the fact he was a prominent member of his religious community. He had failed to give reasons for concluding whether the cause was any one or combination of these factors and had not made sufficiently far reaching findings or given adequate reasons for them and had then failed to assess whether the Applicants could without undue hardship relocate within Pakistan.
13. Addressing the issue of internal relocation, he referred to para.108 of the report. This is at the end of the section dealing with the sufficiency of protection in Pakistan and states:-

Therefore, in my opinion there is no realistic possibility that the authorities in Pakistan would be of any meaningful assistance to (the lead applicant) against the risks to her and her children's physical safety from the anti-Shia militants of the TTP or the Lej in Pakistan. Moreover, the objective evidence detailed in the present expert report and several country of information reports on Pakistan suggest consistent and targeted killings of civilians by the TTP in Pakistan and the helplessness of the State of Pakistan to maintain internal peace and provide sufficiency of protection to those targeted by militant religious extremists in Pakistan.
14. Mr Tarlow then turned to para.110 of the same report which describes the "New CNIC Verification System" in Pakistan. The system appears to be a form of an internet based method of verifying a person's identity and available to the public and to the authorities in Pakistan. Mr Tarlow

submitted that having referred to the ease with which individuals can be traced through this system the Judge needed to state whether he accepted what the expert report said about it and how this would be likely to impact on the assessment of the ability of individuals to relocate within Pakistan.

15. In short, the Judge's decision was deficient because it had not adequately dealt with the Refugee Convention reasons claimed by the Applicants for the death of the lead Applicant's husband and their fear of persecution on return. Similarly, it had not adequately dealt with whether the Applicants could internally relocate.
16. For the Applicants, Mr Macdonald QC submitted the grounds for the permission to appeal had failed to take account of the expert report which explained why the lead Applicant's husband was considered to be prominent in his faith community. This was in part attributable to his rank in the armed forces and his particular role at the military base where he worked and because of his participation in his faith community. At para.31 of his decision the Judge noted the SSHD had accepted the Appellant's husband was a high profile Shia officer who had been targeted and killed was an important feature of the Applicants' claim. Additionally it attached weight to the fact that the military and other authorities in Pakistan had treated the killing as martyrdom and had written appropriately to the lead Applicant. The SSHD's grounds made no reference to any of this.
17. He continued that the Judge's reasoning was sufficient. The expert report set out a considerable amount of objective evidence of both indiscriminate and targeted attacks on professional Shi'ites. The lead Applicant herself was a professional Shi'ite. She had worked as a civilian doctor on the same base as her husband. This fact amounted to individual circumstances placing the Applicants at a real risk of harm. The last paragraph of the grant of permission to appeal had not taken this point adequately into account.
18. The Judge had found the lead Applicant credible. Paras.32 following of her statement of 22 December 2014 at pages 1-16 of the Applicants' bundle explained why the Applicants would be at real risk on return to Pakistan. Additionally, there was the letter of 19 December 2014 from the Judge Advocate General's office in Islamabad at the front of the Applicants' bundle. There was ample evidence which was before the Judge to support his conclusion that on return the Applicants would be at real risk of persecution. At paras.3 and 29 following of his decision the Judge had referred to the expert report detailing both generally and personally why the Applicants would be at risk on return; in particular but not exclusively para. 91 of the report dealt extensively with the specific risk to the lead Applicant which had been referred to at paras.3 and 9 of the Judge's decision.
19. On return the lead Applicant would have to seek work in order to support herself and her children. Her name identified her as a Shiite and she would doubtless seek to work in her professional field and therefore would

immediately acquire at the very least a local profile and be vulnerable on her own account as a professional Shi'ite.

20. There was no substance to the grounds for permission to appeal. They amounted to no more than a disagreement with the Judge who had dealt adequately with all matters. He had referred to the initial facts, the SSHD's basis for refusing the applications, the evidence, the submissions made for each of the parties and had given all this careful consideration before reaching his conclusion. Further, the general situation in Pakistan was very poor. There was no need to identify a single Refugee Convention reason and there was no need to establish a nexus with a single Refugee Convention reason. A refugee could fear persecution for more than one Convention reason.
21. In response, Mr Tarlow for the SSHD submitted that the Applicants had failed to address the issue raised in para.3 of the grant of permission to appeal and to identify why they would be at risk in their home area or why internal relocation would be unduly harsh.

Findings and Considerations

22. The SSHD has not challenged the finding of the Judge that the lead Applicant was a credible witness. Similarly, neither the expert report nor the Judge's acceptance of and reliance on it have been challenged.
23. The Judge referred to the relevant paragraphs of the expert report and other parts of the expert report throughout his decision. It cannot be said he did not have the report very much to the forefront of his mind when he reached at paras. 29-35 his conclusions for allowing the appeal on asylum grounds. Those concluding paragraphs also include several references to the expert report.
24. While the decision might be challenged for not having dealt more fully with the issues of the nexus with the Refugee Convention and particularly with internal relocation, I do not find it can be said that the Judge dealt inadequately with these matters. On the issue of internal relocation especially he relied on the expert report by simply citing the relevant paragraph numbers. This does not amount to an error of law such that the decision should be set aside. Given the Judge's findings and acceptance of the expert report which have not been challenged by the SSHD in the appeal to the Upper Tribunal, no differently constituted Tribunal would have come to any other conclusion. For these reasons the decision of the First-tier Tribunal stands.

NOTICE OF DECISION

The First-tier Tribunal's decision did not contain a material error of law and shall stand.

Signed/Official Crest

Date 21. iv. 2015

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Designated Judge Shaerf
A Deputy Judge of the Upper Tribunal