



IAC-BH-PMP-V1

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

Appeal Numbers: AA/10687/2014  
AA/10769/2014  
AA/10770/2014  
AA/10771/2014

**THE IMMIGRATION ACTS**

Heard at Bennett House, Stoke  
On 23<sup>rd</sup> November 2015

Decision & Reasons Promulgated  
On 18<sup>th</sup> December 2015

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE GARRATT**

**Between**

SH	<u>First Appellant</u>
HH	<u>Second Appellant</u>
AH	<u>Third Appellant</u>
MG	<u>Fourth Appellant</u>

(ANONYMITY DIRECTION MADE)

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Mr T Mahmood of Counsel instructed by Syeds Solicitors  
For the Respondent: Ms C Johnstone, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. On 9<sup>th</sup> July 2015 Judge of the First-tier Tribunal Grimmatt gave permission to the appellants to appeal against the decision of Judge of the First-tier Tribunal Lowe who dismissed their appeals against the decisions of the respondent to refuse asylum and to refuse to extend leave to remain. The first appellant is the mother of the second

and third appellants and they are all citizens of Pakistan. The fourth appellant is also a child of the first appellant but is a Canadian citizen.

2. In granting permission to appeal Judge Grimmatt noted that the grounds asserted that Judge Lowe had failed to consider Article 8 issues although acknowledging that she had considered the application of Section 55 of the Borders, Citizenship and Immigration Act 2009. Judge Grimmatt also rejected the claim that Judge Lowe had failed to apply the correct evidential test, had failed to consider affidavits and failed to give adequate reasons for rejecting the core of the appellants' claims. However, permission was granted on the basis that it was arguable that the judge had not dealt with Article 8 issues although Judge Grimmatt commented that it was difficult to see how the decision of the judge adversely affected family life or how a significant private life could have been established in the short time the appellants had been in the United Kingdom.
3. At the hearing in the Upper Tribunal before me Mr Mahmood confirmed that he relied only upon the ground upon which permission had been granted. He thought that the judge's consideration of the best interests of the child appellants as set out in paragraph 43 of the decision was inadequate. There had been no identification of compelling or exceptional circumstances which might allow for consideration of human rights issues outside the Rules. Additionally, the judge had failed to consider adequately the involvement of the first appellant's father-in-law in paragraph 42. The judge had also failed to give specific consideration to the ages of the child appellants at 17, 15 and 4 years respectively. He agreed that the children had been in the United Kingdom since 2014.
4. Ms Johnstone relied upon the response filed on 22<sup>nd</sup> July 2015 in which it was contended that the judge had directed herself appropriately in a "very detailed and thorough determination". The "core" of the appellants' claims had clearly been considered in detail in paragraphs 32 to 42 and adverse credibility findings had been made which were open to her. It was also contended that the children's best interests had been adequately considered in paragraph 43 on the basis that their best interests were to remain in a family unit. Ms Johnstone also drew my attention to the original grounds of appeal before the First-tier Judge in which there was reference to ill-treatment issues but not to human rights under Article 8. She added that the skeleton argument submitted at the First-tier hearing made no attempt to expand the grounds. She emphasised that under paragraph 276ADE of the Rules, any private life claim would fail as none of the child appellants had been in the United Kingdom for seven years.
5. Mr Mahmood concluded his submissions by indicating that human rights issues had been raised at the hearing. The judge was therefore required to deal with them in considering whether or not there were exceptional and compelling circumstances which might warrant consideration outside the Rules applying the *Razgar* five stage tests and taking into consideration the ages of the children.

## **Conclusions**

6. I agree with the statement in the response that the First-tier decision is "detailed and thorough". In the 23 page decision the judge gives very careful consideration to the claims made by the first appellant concerning her marriage and the attitude of her

father-in-law. The judge fairly concluded that the father-in-law was a significant rural landowner in Sukkur District who was able to influence political voting and the judge regarded it as not inconsistent for him to have an authoritarian attitude towards his family, particularly the women in it. However, the judge identified inconsistencies in the first appellant's evidence which enabled her to conclude that a Jirga had not been held or a sentence formally pronounced against the first appellant as to the parentage of her youngest child, the fourth appellant. The reasons given by the judge for this significant conclusion are copious and cogent, resulting in a conclusion which she was entitled to reach and that meant that a death sentence had not been pronounced on the first and fourth appellants. In reaching her conclusions the judge also noted that the first appellant's husband had reassured her that it was safe to return to Pakistan which suggested that nothing of any consequence had, actually, happened.

7. The judge was also entitled to reject claims that the first appellant did not wish to remain married to her supportive husband and, therefore, find she could return to Pakistan where there would be no influence from the father-in-law outside his local area or Karachi. In this respect the judge noted that the appellants had been unmolested despite the father-in-law's alleged hostile attitude towards them from 2011 onwards. With these reasoned conclusions in mind, the judge was not wrong to find that the first appellant, who was not a divorced woman or lone parent, could seek help from and reconciliation with her husband who clearly had his children's interests at heart.
8. It follows, from the unimpeachable credibility findings made by the judge, that the best interests of the minor appellants could only be to remain with their parents, returning to live in Pakistan although, as the judge notes, foreign travel together may also be involved. The judge specifically considers the position of the youngest child in paragraph 43. She was evidently aware of the short period of time which the appellants had been in the United Kingdom from 15<sup>th</sup> May 2014 and thus any private and family life in UK was limited. Even though the judge does not refer to any exceptional or compelling circumstances which might allow for consideration outside the Immigration Rules her consideration of the salient issue of the best interests of the children shows that she had this in mind. It cannot be said that the judge could have found any factors in her exhaustive consideration of the circumstances of the appeal would have led to the identification of compelling or exceptional circumstances and a more favourable conclusion on Article 8 matters. She had found that the appellants could return to Pakistan to live in safety with the first appellant's husband and away from the attentions of her father-in-law who had not, despite his threats, caused serious harm to any of the appellants.
9. For the reasons I have given I am not satisfied that the decision shows an error on a point of law.

### **Decision**

The decision of the First-tier Tribunal does not show an error on a point of law and shall stand.

### **Anonymity**

As this appeal involves the interests of young children I make the following direction:

**DIRECTION REGARDING ANONYMITY – RULE 14 OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Garratt