



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

Appeal Number: IA/33828/2014

THE IMMIGRATION ACTS

Heard at Bradford

On 24 March 2015

**Decision & Reasons
Promulgated
On 31 March 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**KHADIJA BIBI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss M Singh, instructed by Kabir Ahmed & Co Solicitors
For the Respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Khadija Bibi, was born on 1 January 1953 and is a female citizen of Pakistan. She came to the United Kingdom on 11 January 2014 on a visit visa but, on the day before her visit visa expired, she applied for further leave to remain on the basis of her family life. That application

was refused on 12 August 2014. A decision was also taken on that date to remove her. She appealed to the First-tier Tribunal (Judge Myers) which, in a determination promulgated on 14 August 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are four grounds of appeal. Grounds 1 and 2 essentially concern the same alleged error, namely that the judge, having found two of the witnesses (the appellant's son-in-law and daughter) to be credible [21] then went on to make findings inconsistent with that credibility finding. Ground 3 is wholly without merit; there was no evidence at all that the judge applied a higher standard of proof than that of the balance of probabilities. Ground 4 also arises out of the same alleged error as grounds 1/2 and amounts to little more than an assertion that the appeal should have been allowed on Article 8 ECHR grounds had the judge "followed through her positive credibility findings".
3. I had the opportunity of hearing oral submissions from Miss Singh of Counsel and also Mrs Pettersen, a Senior Home Office Presenting Officer. I am grateful to Miss Singh for providing a detailed written skeleton argument which I have also considered.
4. It was accepted by both parties that the appellant cannot meet the requirements of the Immigration Rules. The judge carried out an Article 8 ECHR assessment outside the Rules at [17 – 26]. The appellant claims to be in poor health, no longer have a home or support from family or others in Pakistan whilst her closest family members are living in the United Kingdom. The judge stated that she had "some issues with the appellant's evidence" but stated that she found the son and daughter-in-law to be credible [21]. At [22] the judge stated:

I have more difficulty with the appellant's circumstances in Pakistan. The case is that she received the compensation money in cash and paid it into a bank account but has now spent it all on travel to the UK and general living expenses. She claims to have no other resources or home in Pakistan. However, she has been funding regular trips to the UK, the last one being in January 2014 and the evidence was that her family in the UK did not financially support her in Pakistan. She must, therefore, have had sufficient resources to meet her living expenses and travel costs. It would have been an easy enough matter to have produced bank statements and without such evidence I do not accept that she has no money for accommodation and maintenance in Pakistan.

5. At [24] the judge noted that the appellant does have siblings living in Pakistan and found that she had exaggerated any difficulties that she might experience on return to that country. The judge did not "accept that her siblings will refuse to help her if she is homeless. Her brother helped in the past and she has not provided any evidence that he will not do so in the future." As regards that last statement, the appellant now asserts that the oral evidence given by the son-in-law and daughter before the First-tier Tribunal confirmed that the brother was not willing to provide help in the future.

6. Whilst I admit there may be some infelicities in the language used in the determination, I do not find that Judge Myers has made inconsistent findings as alleged. The finding regarding the son-in-law and daughter's credibility follows immediately from a specific finding which the judge made regarding compensation paid to the appellant in Pakistan when her home was affected by the construction of a dam. The judge said that she had misgivings regarding some of the documentary evidence produced regarding the compensation but found that, "all the witnesses were consistent on this point". I find that the observation of the judge at the end of paragraph 21 regarding the credibility of the son and daughter-in-law refers specifically to the evidence given regarding the compensation claimed by the appellant to have been paid to her. The credibility finding went no further than that as the judge made clear at the beginning of the next paragraph [22] when she stated that she had "more difficulty with the appellant's circumstances in Pakistan." I take that to mean that she had difficulty with all the evidence given by all the witnesses regarding the appellant's circumstances in Pakistan. Those difficulties led the judge to make findings that she did not accept that the appellant had no money for accommodation and maintenance.
7. Even if I am wrong as to the meaning of paragraph 21, there is a deal of difference between the appellant's evidence regarding her own circumstances and the evidence given by third parties regarding those circumstances. There was no reason to suppose that the son-in-law and daughter know the mother's affairs in intimate detail and their evidence regarding her circumstances will always amount to a little more than a statement of belief as to what they consider the mother's circumstances to be. Such a belief may be genuinely held and the evidence may be "credible" as a consequence but it did not prevent the judge in this instance from making findings regarding the appellant's circumstances in Pakistan which differed from the evidence given by the witnesses. It is, frankly, ridiculous to suppose that the judge was bound to accept that, for example, siblings in Pakistan would not help the appellant simply because the son-in-law and daughter believe they would not do so.
8. Having found that medical care was available for the appellant in Pakistan and that she would have the help and support of family members there, it was entirely open to the judge to find that the appellant's removal would not be disproportionate. Indeed, it could be said that the judge has given insufficient weight to the public interest in this case. The appellant was clearly not a credible witness if only because she had entered the United Kingdom as a visitor, declaring to the Entry Clearance Officer that she would return at the end of her visit when it is clear from the evidence which she has now given that she had no intention of doing so. There plainly exists a strong public interest concerned with the removal of individuals who behave in such a manner.

9. NOTICE OF DECISION

This appeal is dismissed.

Date 30 March 2015

Upper Tribunal Judge Clive Lane