



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

Appeal Numbers: AA/10425/2014  
AA/10427/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 22<sup>nd</sup> December 2015**

**Decision & Reasons  
Promulgated  
On 18<sup>th</sup> January 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON**

**Between**

**A B  
T U N**

(ANONYMITY DIRECTION MADE)

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: Ms Gasparo of Counsel

For the Respondent: Ms Fijiwalla. Senior Home Office Presenting Officer

**DECISION ON ERROR OF LAW AND REASONS**

**Introduction**

1. The appellants are sisters and citizens of Pakistan born on 10<sup>th</sup> November 1988 and 5<sup>th</sup> November 1983 respectively. The appellants both entered the United Kingdom as visitors on 24<sup>th</sup> September 2014 and were granted leave until 3<sup>rd</sup> March 2015. The appellants both claimed asylum on 14<sup>th</sup> October 2014. The respondent decided on 12<sup>th</sup> November 2014 to refuse the appellants' asylum claim.

2. The decisions of the respondent also indicated that the appellants' leave was curtailed and that they would be removed by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.
3. The appellants appealed and their appeals came before Judge of the First-tier Tribunal A K Simpson on 26<sup>th</sup> February and 15<sup>th</sup> April 2015. In a decision promulgated on 3<sup>rd</sup> August 2015 Judge Simpson dismissed the appeals of both appellants on asylum and humanitarian protection grounds and further on human rights grounds.
4. The appellants sought permission to appeal to the Upper Tribunal. Permission was granted on 29<sup>th</sup> September 2015. Permission was sought on six grounds. Although the judge granting permission was of the view that the majority of the grounds amounted to no more than a disagreement with the outcome of the appeal, it was arguable that there was a material error of law as the judge may have erred in failing to give sufficient consideration to the individual circumstances of the second appellant taking into account that she:
  - (a) Bears the scars of serious injuries suffered in a sectarian bomb attack by the Wahabi group in Quetta on Shia Muslims returning from pilgrimage and she has been publicly identified as one of the very few survivors of the attack. It is arguable that she is consequently easily identifiable to those who may wish to do her harm.
  - (b) Has been educated to PhD level in Iran and was offered a university lecturing post in Pakistan at the instigation of the Iranian Government.
  - (c) Is motivated to promote the education of women in Pakistan.

The appeal then came before me.

5. Ms Gasparo submitted a skeleton argument in which she expanded on the Grounds of Appeal. Ms Fijiwalla confirmed that these grounds did not amount to a variation of the Grounds of Appeal.

### **Error of Law**

6. Although Ms Fijiwalla argued that the judge had taken into account that the appellants were Shi'a Muslims, she conceded that there were difficulties with the judge's consideration, in particular the consideration of the alleged high profile of the second appellant, Ms T U N
7. Ms Gasparo accepted that the first appellant's case was largely dependent on that of her sister and the claim that the first appellant would by association be at risk on return.
8. I am of the view that there was an inadequate assessment by the First-tier Tribunal Judge of the risk to both appellants given the alleged high profile of T U N and the alleged risk to her sister as the family member of a Shi'a

woman with a high profile and given the high level of education of both women.

9. I note that despite the fact that Judge Simpson noted, at [15] that the Presenting Officer appeared to concede that the second appellant might attract some risk as a result of her public activities, the judge failed to make adequate findings as to the extent and effect of the public profile of the second appellant and the risk thereof to both appellants.
10. The evidence before the judge included newspaper articles naming the second appellant as a victim and survivor of the bomb blast. As set out by the judge at [2] the respondent accepted that such an attack took place and that the second appellant was caught up in the bomb blast.
11. Ms Fijiwalla conceded, properly in my view that the judge's findings did not refer to the second appellant's profile.
12. I am satisfied that whilst considering the situation of Shi'as in Pakistan from [21] to [24], the judge erred in failing to make adequate findings in relation to the specific factual context of the appellants in Pakistan.
13. The judge, at [25] relied on AK & SK (Christians: risk) Pakistan CG [2014] UKUT 00569 (IAC); he considered that they had failed to demonstrate a well-founded fear because the judge was of the view that the appellants did not come within the areas mentioned in the UNHCR guidelines considered in AK & SK (where an internal relocation would not be available) and the judge considered that the appellants also did not come within the categories of members of religious minorities with defined profiles set out in the UNHCR profile. However those guidelines also indicated that members of the Shi'a community may 'depending on the individual circumstances of the case, be in need of international protection'. Given the accepted particular circumstances of the second appellant and by association her sister, the judge failed to provide adequate reasons in relation to these appellants.
14. I am not satisfied that it can be safely said that had the judge considered the second appellant's profile he would necessarily have reached the same conclusion on risk and sufficiency of protection in respect of both appellants.
15. I am satisfied therefore that the errors in the judge's consideration of both appellants are sufficient that the decision of 3<sup>rd</sup> August 2015 cannot stand and should be set aside in its entirety.

## **Conclusion**

16. The decision contains an error of law and is set aside. It was agreed that fresh findings of fact need to be made.

## **Notice of Decision**

The appeal is allowed. The determination of the First-tier Tribunal is set aside. No findings are to stand, Under section 12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 (b), the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to remit the case to the First-tier Tribunal. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge Simpson.

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

Unless and until a Tribunal or court directs otherwise, the Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the Appellants and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 15 January 2016

Deputy Upper Tribunal Judge Hutchinson