



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

Appeal Number: PA/00164/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 24th July 2017**

**Decision & Reasons Promulgated
On 17th August 2017**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

[S A]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Harris, instructed by Elder Rahimi Solicitors
For the Respondent: Mr T Melvin, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Iran born on [] 1982. Her appeal against the refusal of her protection claim was dismissed by First-tier Tribunal Judge Beg on asylum, humanitarian protection and human rights grounds on 15th February 2017.
2. The Appellant appealed on the grounds that the judge's assessment of credibility was flawed and this had affected the assessment of risk on

return. Further, the judge had failed to take into account relevant material in assessing risk on return.

3. Permission to appeal was granted by First-tier Tribunal Judge Cruthers on 7th June 2017 on the following grounds: “Without restricting this grant, I record my suspicion that there is little substance in at least some of the complaints made in the grounds. For instance, the Appellant was apparently a financial manager with a TV company (paragraph 1 of the decision under consideration). If the Appellant genuinely intended a touristic visit to the UK, it is surprising that she had not sought out more accurate information as to the attractions that she would be able to visit in the UK with her 6 year old son (cp, for example, the judge’s paragraph 17). In addition the judge points to evidence indicating that GEM TV has relatively close ties with the Iranian government (paragraph 22), and really there is nothing to suggest why the Appellant might attract adverse attention from the Iranian authorities. But in my assessment it may be that the judge did err in some of the ways alleged. For instance, as the grounds argue, the fact of the ‘dismissal letter’ being dated two days before the claimed call to terminate the Appellant’s employment with GEM TV does not necessarily cast doubt on the Appellant’s core account (cp the judge’s paragraph 18). Overall, there is just sufficient in the grounds to make a grant of permission appropriate at this stage. But the Appellant should not take this grant of permission as an indication that the appeal will ultimately be successful.”

The Appellant’s Claim

4. The Appellant applied for a UK multi-visit visa on 30th March 2016 and she arrived in the UK on 26th May 2016. Her visa was valid until 13th October 2016. On 15th June 2016 she claimed asylum.
5. When she arrived in the UK, the Appellant was a director of GEM TV, which was an Iranian TV satellite channel. During the course of her employment she moved to Dubai in 2006 and Malaysia in 2010 where she was promoted to financial manager. She claimed that, in November 2012, employees of GEM TV known as the “dubbed group”, who provided dubbings for foreign language programmes, were arrested in Iran and suspected of being involved with the Mujahedeen in trying to overthrow the government. GEM TV offices were raided and the founder’s family were arrested. She claimed that her parents were threatened in Iran and their home was raided at that time.
6. The Appellant claimed that after her arrival in the UK in June 2016 she received a telephone call from the human resources department of GEM TV telling her that her contract had been terminated and that she now had no right to live in Malaysia. The Appellant claimed that this was followed by an email. She now fears that if she returned to Iran she would be arrested. She also claimed that a colleague, [PZ], was arrested in December 2016 in Iran and she also worked for GEM TV.

Submissions

7. Ms Harris submitted that, since it was accepted that the Appellant worked for GEM TV and that she could not return to Malaysia, the issue that should have been at the forefront of the judge's mind was whether the Appellant would be at risk on return as a result of her position as a director of GEM TV. There was evidence in the Appellant's bundle of her connection to PZ and also of the view of the Iranian authorities to those who are disrespectful to the regime. The judge had ignored key aspects to the Appellant's claim and had instead focussed on the credibility of her visa application.
8. The judge's findings on the Appellant's reasons for coming to the UK did not affect the assessment of risk on return. The judge found the Appellant came here to claim asylum. Even if that was her intention, it did not undermine her claim. The Appellant's connection to GEM TV as a director was sufficient to put her at risk. The background evidence supported the Appellant's claim that those working for GEM TV were at risk in Iran.
9. The Appellant claimed in her substantive interview that many GEM TV employees had been arrested and her name had been given to the authorities. The arrests and raids on GEM TV employees were supported by the background material. There was also new evidence, on which Ms Harris sought to rely, that GEM TV were spreading propaganda and had come to the adverse attention of the authorities.
10. Ms Harris submitted that the judge had applied a higher standard of proof and her credibility findings had affected the assessment of the risk on return. The judge had failed to deal with the core of the Appellant's claim and had not addressed the points raised at paragraph 13 of the grounds, which stated:

"At paragraphs 20 and 21 the judge purports to set out the evidence relied on by the Appellant to show that those associated with GEM TV are at risk from the Iranian authorities. The judge materially errs by failing to mention the evidence of arrests of GEM TV employees, which were closely followed by raids on the Appellant's family home in Tehran. The Appellant refers to these incidents in her AIR at questions 36, 38, 40, 63, 66, 78, 79, 80, 83, 84, 91, 92, 95, 96, 99, 102 and paragraph 3 of her appeal statement. This was a core element of the Appellant's case that has been ignored by the judge. Accordingly, the judge's assertions were unsustainable."

11. Mr Melvin relied on the Rule 24 response, which stated: "The grounds take issue with the findings made by Judge Beg in considering the assertions made in the VAF pointing out that the judge did not consider the

Appellant's responses to these points in her appeal statement. It is submitted that the issues raised in the Reasons for Refusal Letter and the Tribunal decision form part of the overall assessment of credibility and risk that it is incumbent on the judge to make and are individually not determinative of the appeal. The judge also clearly states that she has fully considered all of the documents of the file, had the benefit of hearing the questions posed about her credibility to the Appellant and hearing her answers to those which will be borne out by the Record of Proceedings. It was open to the judge to find that the Appellant was not a genuine tourist given amongst other things the fact that she reported that she was coming to the UK to visit Disneyland and Universal Studios. It is submitted that the credibility aspects relating to the VAF have been fully reasoned by the judge revealing no material error of law. The grounds further challenge the findings in relation to the dismissal of the Appellant from her job as a director of GEM TV. It is submitted that the judge fully reasons this credibility finding at paragraphs 18 and 19 and the finding, that the fact that the Appellant did not query whether as a director of a company her contract could be legally terminated counted against the credibility of the account, was open to the judge to make. The Respondent also argues that the judge is entitled to conclude that the Appellant has given no credible reason why her contract as a director of the company would be terminated. The judge notes that the Appellant provided no evidence that she was involved in anything that GEM TV disapproved of. All of the grounds are challenged."

12. Mr Melvin submitted that the raid on the Appellant's family home related to a time in 2012 and 2013 and the judge made findings in respect of those events that took place in the past. There was no evidence to show that the Appellant would now be at risk on return. She was in contact with her parents and there was no current interest in her and no outstanding arrest warrants.
13. Looking at the points referred to at paragraph 13 of the grounds, in the context of the judge's findings, they were not material. GEM TV was not anti-regime and the judge dealt with this at paragraph 22. The CEO of GEM TV had links with a Mujahedeen group. It was not his relationship with GEM TV that brought him to the attention of the authorities, but his support for the Mujahedeen and his anti-regime sympathies. The Appellant had no current links with GEM TV, having been dismissed by them. She was the ex-director of a company providing satellite services for dubbed programmes. There was no link between the Appellant and the Mujahedeen. The judge's finding that she was of no interest to the Iranian authorities and would not be at risk on return was open to the judge on the evidence before her. There was no material error of law.

Discussion and Conclusions

14. The judge's finding that the Appellant was not a genuine visitor to the UK was one which was open to the judge on the evidence before her and she

gave adequate reasons for coming to that conclusion at paragraphs 15 to 17. Her finding that the Appellant had come to the UK to seek asylum was not relevant to the assessment of risk on return.

15. It was accepted that the Appellant was a director of GEM TV. The judge's doubt as to the order in which the Appellant received an email or a telephone call was not material to the judge's decision. Neither was the judge's finding that the Appellant's failure to make enquiries about whether her contract could be terminated was one which damaged her credibility.
16. The judge's findings at paragraph 14 to 19 were open to her on the evidence before her and she gave cogent reasons for her conclusion that the Appellant had come to the UK in order to claim asylum and had orchestrated her dismissal from her place of employment in order to support her claim that she was unable to return to Malaysia and would be at risk on return to Iran.
17. At paragraph 20 the judge stated: "The appellant relies upon a history of difficulties that GEM TV faced allegedly with the Iranian authorities." The judge dealt with the Appellant's claim to have had difficulties in the past because of her employment with GEM TV, which the Appellant set out in her substantive interview at questions 38 to 102. The Appellant claimed that in 2012 to 2013 a number of GEM TV employees were arrested and their homes raided. The newspaper article showed that the managing director had been arrested in Dubai for allegedly having links to the Mujahedeen. The Appellant claimed that her house in Tehran had also been raided at that time. The judge considered this historic claim and concluded that the Appellant herself had never been accused of supporting the Mujahedeen.
18. The judge also considered the photographs and the Appellant's association with PZ, who had been arrested and detained in December 2016. The evidence of PZ's arrest appeared in the Appellant's bundle at page 20. The report, dated 21st December 2016, stated that an employee of GEM TV network, PZ, had been arrested. The judge concluded that the fact that the Appellant knew PZ and had photographs taken with her was insufficient to show that the authorities were now interested in the Appellant given that she had contact with family in Iran and there had been no subsequent interest in her after 2012/2013. The father of her child, who also worked for GEM TV and ran a travel agency in Iran, had never been arrested.
19. The judge dealt with the core aspect of the Appellant's claim and took into account the evidence and background material in the Appellant bundle. The judge's finding that there was no credible evidence that the Appellant was wanted by the Iranian authorities for her work with GEM TV was one

which was open to the judge on the evidence before her. The matters referred to in 2012 and 2013 did not put the Appellant at risk on return in 2017 for the reasons given by the judge at paragraphs 20 and 21.

20. It was submitted by Ms Harris that the mere fact that the Appellant had been a director of GEM TV was sufficient to put her at risk. I am not persuaded by this submission. The arrests of GEM TV employees in 2012/2013 were as a result of their proposed links with the Mujahedeen. There was no evidence that the Appellant had any links to the Mujahedeen or that the Iranian authorities suspected her of having such links. The report of the arrest of PZ in December 2016 was very short report and the reason for her arrest was unknown. The Appellant's association with PZ was limited. The judge took this into account and concluded that the authorities did not have an interest in the Appellant. If the arrest of PZ was in some way linked to the Appellant then the authorities had shown no interest in the Appellant's parents, sister, father of her child, or his family, all of whom lived in Iran.
21. Taking the Appellant's claim at its highest, she was no longer employed by GEM TV. Her past association with GEM TV had not brought her to the attention of the authorities and there was no reason to suppose that it would do so in the future given that the arrest of PZ had not generated any interest in the Appellant in Iran.
22. The judge found that the Appellant's work for GEM TV would not put her at risk on return to Iran. The judge's findings were open to her on the evidence before her. She clearly assessed the core of the Appellant's claim, which were the events in 2012/2013 and the arrest of PZ in 2016. The judge gave adequate reasons for why the Appellant would be of no interest to the authorities on return to Iran. There was no error of law in the judge's decision and I dismiss the Appellant's appeal.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.

J Frances

Signed

Date: 7th August 2017

Upper Tribunal Judge Frances

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.