



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

Appeal Number: PA/00857/2017

THE IMMIGRATION ACTS

**Heard at Bennett House, Stoke-on-Trent
On 8th December 2017** **Determination & Reasons
Promulgated
On 10th January 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**M M
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Azmi (Counsel), French & Company

For the Respondent: Mr C Bates (Senior HOPO)

DETERMINATION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Row, promulgated on 29th June 2017, following a hearing at Sheldon Court in Birmingham on 23rd June 2017. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter falls before me.

The Appellant

2. The Appellant is a female, a citizen of Bangladesh, who was born on [] 1975. She appealed against the decision of the Respondent dated 16th January 2017, denying her asylum and humanitarian protection under paragraph 336 of HC 395 (as amended).

The Appellant's Claim

3. The Appellant came to the UK on 26th October 2003 on a visitor's visa which was valid for six months until 22nd March 2004. She came with her husband. Both of them then overstayed. It was only on 20th July 2016 that she made an asylum claim based upon her membership of a particular social group. The basis of the Appellant's claim is that she has suffered domestic violence from her husband, who in early June 2016 left the house, and she does not know his whereabouts. The Appellant returned to Bangladesh, where she contacted her in-laws, and they became concerned about her husband's whereabouts, and thought that the Appellant's son might inherit some of their property, as a result of which the Appellant was threatened by her elder brother-in-law, that if she returned to Bangladesh he would kill her. The Appellant received a threatening text from her husband's younger brother (see paragraph 14 of the determination).

The Judge's Findings

4. The judge held that the asylum claim could not succeed because if one looks at her answer to question 96 during her asylum interview, she had not expressed any fear of her elder brother-in-law. Her claim now, explained the judge (at paragraph 29) was that this elder brother-in-law had left the army in 2005 or 2006, and he would use his influence to obtain information against the Appellant, and target her, by reason of which she could not now return.
5. The judge went on to explain (at paragraph 30) that the claim that the Appellant's in-laws "are involved in the Bangladeshi security services" had been mentioned very late in the day and that, "these matters have been brought up by the Appellant after the decision in order to come to the specific points made by the Respondent in that decision. This does damage the Appellant's credibility" (paragraph 30).
6. The judge dismissed the appeal.

Grounds of Application

7. The grounds of application state that the judge had erred as a matter of fact in stating that the Appellant had not mentioned her husband's family's involvement in the security services until after the refusal decision. This is because the Appellant had raised this during her asylum interview itself. To assess the Appellant's credibility on this basis was therefore factually incorrect.

8. On 27th September 2017, permission to appeal was granted on the basis that “the grounds are arguable, albeit only just”. In granting permission, it is stated that, “the judge did give several other, sustainable, reasons for finding that the Appellant was not at risk on return ...” (see paragraph 3).
9. On 8th November 2017, a Rule 24 response was entered to the effect that, “the fact that the Appellant may have a brother-in-law who is a relatively junior officer in the Bangladeshi Army has not impact upon her ability to internally relocate within Bangladesh” (see paragraph 3).

Submissions

10. At the hearing before me on 8th December 2017, Mr Azmi, appearing on behalf of the Appellant, relied on the fact that the judge’s conclusion (at paragraph 31) was to the effect that,

“I do not find that the Appellant’s elder brother or cousin have any involvement with the security services in Bangladesh, are in any position of influence, or are able to obtain any information by using such influence. I find these matters have been fabricated by the Appellant to boost her claim”.
11. Mr Azmi, however, submitted that these conclusions follow directly upon the judge’s analysis at paragraph 30, namely, that, “these matters had been brought up by the Appellant after the decision ...”. Mr Azmi submitted that this was factually incorrect because if one looks at the interview notes at B7 and at B20, one finds recognition of the family’s involvement with the armed services in Bangladesh first, at questions 17 to 20, and thereafter more importantly, at questions 92 to 94.
12. Given that the Appellant had earlier to her in-law’s involvement with the intelligence services, her claim, that they opposed a threat and a risk to them, became a credible claim, and the judge had excluded the possibility of so treating it.
13. For his part, Mr Bates submitted that there was no error of law at all in the determination of IJ Row, let alone a “material” error. This is because if one looks at the questions at B20 one finds that the elder brother had left the army in Bangladesh, and when the Appellant was asked about this, she did not know the circumstances in which she had left, and whether this was an honourable or a dishonourable discharge. In either event, since he was no longer in the army, he was not in a position to elicit the help of the armed services, or the intelligence services, to threaten the Appellant in any way whatsoever.
14. Second, when the Appellant was actually asked why she could not return at question 96, what she had said was that, “in Bangladesh I cannot travel on my own”.
15. Third, the judge had expressly referred to the Appellant’s answer at question 96, before coming to any conclusions, because this reference was

made at paragraph 29 of the determination, and the ultimate conclusions were drawn at paragraph 31 of the determination.

16. Fourth, insofar as the judge does refer to the evidence being produced late in relation to these family members, the judge is entirely right because he explains how it is that at the hearing, “the Appellant has advanced two further arguments”. What she has said is that since the text of 10th July 2016 she has received further threats and communications from her in-laws. She states that her elder brother in-law was in the army. Moreover, “her husband’s cousin Al-Amin works in the intelligence services. Her brother-in-law and cousin would be able to use their influence to find out where she lives and how” (paragraph 25). These were new matters in terms of the actual risk of ill-treatment opposed by the elder brother-in-law and the cousin, Al-Amin, whatever may have been the position in terms of the Appellant relating the general background of her in-laws during the course of the interview. The judge could not be criticised for referring to these facts as he did. Accordingly, there was no error of law at all.
17. In his reply, Mr Azmi submitted that one could not over-look the fact that the Appellant did refer to her in-laws being in the army during the interview.

No Error of Law

18. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision and remake the decision. My reasons are as follows.
19. First, the decision of Judge Row is entirely right on the basis of the terms that it is made. Judge Row refers to question 96 specifically. This question (at B20), is specifically on the matter of how the Appellant’s husband’s family would know if she travelled back to Sylhet in Bangladesh. The Appellant explains that, “if you say a word here it spreads to Bangladesh so they would find out”. This, in itself, does not show a risk from her in-laws. But even more importantly, the Appellant continued her answer with the words that, “in Bangladesh I can’t travel on my own, I would need someone accompanying me ...”.
20. That expresses a general concern of being able to get about in that part of the world which many a traveller may generally entertain, and certainly one who, having lived in the United Kingdom, is faced with the prospect of returning back there. At the very least, it does not evince any fear of attack or ill-treatment from anyone. The judge, accordingly, was entirely correct to find as a matter of fact, that the answer to this question, did not show the Appellant being put at risk.
21. Second, and no less importantly, any notion that the Appellant would be at risk from her elder brother-in-law was not made out on the lower standard

of proof. This is not only because the elder brother-in-law had left the army. This is a question that the Appellant was specifically asked at question 94. What appears to have been overlooked by all the representatives before me today is the answer that the Appellant had given at that time, which was to do with the Appellant having left the army because of “something to do with the funds in the office” and it was because of this that the Appellant went on to explain that, “I don’t exactly know whether he left the job or they chucked him out” (question 94).

22. There appears to be here a very real possibility of the Appellant’s elder brother having been dishonourably ejected from the army. Accordingly, the conclusion drawn by the judge that “these matters have been fabricated by the Appellant to boost her claim” (paragraph 31 of the determination) was a conclusion that was entirely open to the judge on the evidence before the Tribunal.

Notice of Decision

There is no material error of law in the original judge’s decision. The determination shall stand.

An anonymity order is made.

Signed

Deputy Upper Tribunal Judge Juss

Date

8th December 2017