



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: HU/01142/2020
(V)**

HU/01223/2020 (V)

THE IMMIGRATION ACTS

Heard remotely at Field House

On 19th November 2021

Decision & Reasons

Promulgated

On 20th December 2021

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**UJALA ARSHAD
HAMNA ARSHAD
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr A Rehman, instructed by Kenton Solicitors

For the Respondent: Ms A Everett, Home Office Presenting Officer

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Microsoft Teams (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents referred to are in the bundles on the court file, the contents of which I have recorded. The order made is described at the end of these reasons.

DECISION AND REASONS

1. The appellants are citizens of Pakistan born on 16 September 1992 and 15 January 1995 respectively. They appeal against the decision of First-tier Tribunal Judge Browne, promulgated on 6 April 2021, dismissing their appeals (against the refusal of entry clearance as the children of a refugee under paragraph 352D of the immigration rules) on human rights grounds.
2. The appellants applied for permission to appeal on the following grounds:
 - (i) The judge erred in law in considering that living away from home temporarily for the purpose of study at university was evidence of independent living;
 - (ii) The judge's findings were either unreasoned, perverse and contrary to the backgrounds material or highly speculative and without evidential or logical basis;
 - (iii) The judge took into account irrelevant matters and failed to give the appellants the opportunity to clarify the judge's concerns;
 - (iv) The judge failed to consider country guidance.

Permission was granted by First-tier Tribunal Judge Shaerf on all grounds on 21 May 2021.

Submissions

3. Mr Rehman relied on the grounds of appeal and submitted the judge failed to give reasons for rejecting the evidence of the appellants' mother and father which he referred to at [19]. At [27] onwards the judge made findings based on assumptions on issues which were not canvassed in evidence or put to the appellants' parents. Leading an independent life and living independently were not the same thing. The judge confused these issues. On the facts before the judge, the appellants were living in hostels at university and came back to live with the family. They never stopped living as a family unit: AP (India) v SSHD [2015] EWCA Civ 89 at [45].
4. Mr Rehman could not say whether the judge's attention was drawn to country guidance, but in any event the judge failed to consider factors relevant to adult refugee children. The judge accepted the appellants were reliant on funds from their parents and family life could not continue in Pakistan.
5. Ms Everett submitted the judge was aware of the nuanced consideration of young adults going to university. The judge considered all relevant factors including expressions of vulnerability to reveal dependence at [29]. The appellants had gone to university and continued to study to masters degree level. Although dependency may fluctuate, the judge had given

adequate reasons for why he considered the appellants to be independent. The grounds disclosed no error of law.

6. The appellants' parents knew the basis of the refusal and the evidence addressed dependency under Article 8. The judge's findings were not perverse and he gave adequate reasons. There was no procedural unfairness.
7. In response, Mr Rehman submitted the decision was not adequately reasoned and issues were not put to the witnesses. The appellants were living without male supervision and there was a difference in living at university and at home. Student life was very different to living as an independent single woman without a male family member: SM (lone women - ostracism) Pakistan CG [2016] UKUT 67 (IAC) at [55].

Conclusions and reasons

8. There is no dispute that the appellants cannot satisfy the immigration rules. They submit there are exceptional circumstances because they are young women in a hostile environment who are dependent on their father in the UK. They claim to be unable to find work because of their father's political activity and because they are single young women.
9. There was no challenge to the judge's factual findings at [21] to [23]. The appellants' father was granted refugee status in 2015. The appellants remained in Pakistan and continued their education when their mother and two brothers joined their father in the UK in 2018.
10. The appellants have lived in Pakistan without their father for five years and they were over the age of 21 when their mother left. The appellants remained in Pakistan to complete masters degrees, attending university in Islamabad away from the family home in Kashmir. They did not apply to come to the UK with their mother and brothers in 2018. The appellants were able to continue their higher education in Pakistan without any problem after their father, mother and brothers came to the UK. They completed their degrees in 2019.
11. This is not a case where the appellants live with their parents and siblings save for when they are away at university. The family unit separated in 2018 and the appellants have been living in hostels at university or with their grandfather in Kashmir since then.
12. The judge considered the oral evidence of the appellants' parents in which they stated they supported the appellants financially by sending £100 each per month and they had regular contact two to three times per week. There were no safety concerns when the appellants' parents left Pakistan, but concerns had arisen because their elderly grandfather was ill with

Covid-19. Both parents stated that women could not live independently in Pakistan.

13. The judge assessed the appellants' Article 8 claims against this background at [24] to [53]. There was insufficient evidence to show that the appellants were politically active or that they suffered hardship in Pakistan as a result of their father's political activity. Their inability to find work soon after completing their masters degrees was not unusual.
14. The judge took into account the oral evidence, evidence of communications between the appellants and their family in the UK, and the financial documentation. His conclusion at [53] that there was insufficient evidence to establish more than normal emotional ties was open to him on the evidence before him. The evidence before the judge was insufficient to establish 'real, committed or effective support'.
15. The judge's findings were not illogical or perverse. His conclusion that there were no exceptional circumstances was open to him on the evidence before him and he gave adequate reasons for his conclusions.
16. On reading the decision as a whole, it is apparent the judge was aware of the social and economic circumstances in Pakistan. The burden is on the appellants to produce sufficient evidence to substantiate their case. The appellants were represented and it is not for the judge to put matters to the witnesses. I am satisfied the judge took into account all relevant matters and the hearing was not procedurally unfair. Any failure to refer to country guidance was not material in the circumstances.
17. On the facts asserted, the refusal of entry clearance did not give rise to consequences of such gravity so as to engage Article 8. In any event, the refusal of entry clearance was proportionate. The appellants could not satisfy the immigration rules and their Article 8 rights, taken at their highest, could not outweigh the public interest.
18. I find that the judge's findings were open to him on the evidence before him and he gave adequate reasons for his conclusions. There was no material error of law in the decision dated 6 April 2021. I dismiss the Appellant's appeal.

Notice of decision

Appeal dismissed

J Frances

Signed
Upper Tribunal Judge Frances

Date: 13 December 2021

TO THE RESPONDENT
FEE AWARD

As I have dismissed the appeal I make no fee award.

J Frances

Signed
Upper Tribunal Judge Frances

Date: 13 December 2021

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. **A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**
6. **The date when the decision is "sent" is that appearing on the covering letter or covering email**