



IAC-FH-CK-V1

**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/01188/2020 (V)**

THE IMMIGRATION ACTS

**Heard remotely from Field House
On 14 April 2021**

**Decision & Reasons Promulgated
On 26 April 2021**

Before

UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

**A I
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

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

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

Representation:

For the Appellant: Mr J Gajjar, Counsel, instructed by M A Consultants
(London)

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

The Appellant appeals against a decision of First-tier Tribunal Judge Komorowski (“the judge”), promulgated on 2 June 2020, by which he dismissed the Appellant’s appeal against the Respondent’s refusals of her protection and human rights claims. Those claims focussed on the assertion that the Appellant, a national of Pakistan, had entered into an arranged marriage in that country but had then divorced her first husband. She then married her current husband, a Pakistani national, to the disapproval of her family in Pakistan. She claimed that an uncle held a position of influence in a district within Lahore and that he would be able to use this influence to do her harm in her home area or indeed anywhere else in that country. The Appellant’s current husband was residing in the United Kingdom as an extended family member of a cousin of his, pursuant to the Immigration (European Economic Area) Regulations 2016.

In refusing the Appellant’s claims, at paragraph 54 of the decision letter, the Respondent accepted that she had demonstrated a “genuine subjective fear” of returning to Pakistan. However, the decision letter went on to state in clear terms that that fear was not well-founded for reasons set out in considerable detail. It was not accepted that the Appellant would be at risk of any harm, nor that she would be unable to internally relocate if a risk in her home area did in fact exist. In addition it was said that the Pakistani authorities could provide sufficient protection. In respect of Article 8, it was said that she was unable to satisfy any of the relevant Immigration Rules and there were no exceptional circumstances in her case.

The decision of the First-tier Tribunal

The judge noted the Respondent’s limited concession at the outset of his decision. He adopted the approach of taking the Appellant’s case at its highest. Having accepted, on this premise, that she would be at risk from her uncle in Lahore, the judge went on to consider whether that risk extended to all parts of Pakistan and also whether the Appellant could internally relocate. The judge made reference to the evidence before him, such as it was, setting out in some detail what the Appellant herself had said about her uncle and his claimed influence. The judge found that the evidence did not go to show that the uncle would or could exert relevant influence over the Pakistani authorities anywhere outside of Lahore and that as a result no risk elsewhere in that country existed. Further, the judge found that the Appellant could internally relocate without that option being unduly harsh. This was in view of the absence of a risk from the uncle and that the Appellant would be able to travel back to Pakistan with her current husband.

The Appellant’s challenge

The grounds of appeal essentially assert that the judge did not deal correctly with the Appellant’s evidence about her uncle’s influence and that he failed to take relevant evidence and submissions into account.

In granting permission, First-tier Tribunal Judge Keane commented that the grounds “amounted to no more than a disagreement with the findings of the judge” but went on to detect what he described as a “Robinson obvious point”, namely that the judge appeared to have gone behind the concession made a paragraph 54 of the decision letter. This concession, it appeared to Judge Keane, covered the issues of risk and/or internal relocation in areas away from Lahore.

At the outset of the hearing I indicated to the parties that I was willing to hear submissions on both the grounds as pleaded and the point taken in the grant of permission. In my view, if Judge Keane had wished to formally restrict the grant of permission he could and should have stated this in the decision part of the notice (in other words, above the horizontal line). He did not do so.

The hearing

With his usual candour, Mr Gajjar confirmed that he was relying on the grounds of appeal (of which he was not the author) and the grant of permission, in respect of which he acknowledged the actual wording of the concession stated in the decision letter. He did not have any further submissions to make. I indicated that I did not seek any additional assistance from him by way of oral submissions.

Mr Avery had nothing to add.

Conclusions

As I indicated to the parties at the hearing, I conclude that there are no errors of law in the judge’s decision.

It is quite apparent that the Respondent’s concession contained in paragraph 54 of the decision letter was limited in nature to the acceptance of a *subjective* fear on the Appellant’s part. Such a fear, if it is necessary at all, is clearly not sufficient to make out a protection claim: there must be a well-founded fear based on an objective risk. It is equally clear that the Respondent had in no way conceded that such a risk existed in the Appellant’s case, nor that it would be unduly harsh for the Appellant to internally relocate. Nothing in the judge’s decision indicates that he went behind the limited concession.

I am bound to say that I struggle to see why Judge Keane granted permission in the terms he did. The “Robinson obvious point” was neither obvious nor arguable.

In terms of the grounds of appeal themselves, I agree with Judge Keane’s observation that they in truth amount to nothing more than a disagreement with the judge’s findings. The judge clearly had full regard to the Appellant’s evidence, setting it out in some detail at paragraph 15. He took her evidence at its highest and was in my view plainly entitled to find that even on this evidence it had not been shown to the requisite standard that the uncle had any relevant influence extending beyond, at most, the city of Lahore (see the final part of paragraph 15).

The judge was in turn entitled to conclude that there was no risk to the Appellant elsewhere in Pakistan. The judge was also entitled to conclude that it would not have been unduly harsh for the Appellant to internally relocate. Even if a submission that it would have been unduly harsh had in fact been made at the hearing, what is said in paragraph 10 of the grounds of appeal indicates that the argument focussed on a *risk* to the Appellant (by virtue of the assertion that the uncle could use “exit control lists” to locate the Appellant) rather than the much wider assessment of relevant circumstances pertaining to the reasonableness of internal relocation.

In light of SM (lone women - ostracism) Pakistan CG [2016] UKUT 00067 (IAC), and the fact, as the judge found it to be, of the husband’s ability to return to Pakistan with the Appellant, it was open to him to conclude that internal relocation was indeed a viable option. There has been no specific challenge to the judge’s finding on the husband’s position, but in any event, the husband was residing in this country solely as an extended family member of an EEA national and on the face of the evidence there was nothing remotely problematic (let alone factors indicating insurmountable obstacles) for him to return with his wife.

In all the circumstances, the judge’s decision is sustainable and the Appellant’s appeal to the Upper Tribunal must be dismissed.

Anonymity

It is appropriate to maintain the direction made by the First-tier Tribunal.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

The decision of the First-tier Tribunal stands.

Signed H Norton-Taylor

Date: 15 April 2021

Upper Tribunal Judge Norton-Taylor