



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

Appeal Number: IA/05304/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 26 January 2015**

**Determination Promulgated
On 26 January 2015**

Before

Deputy Upper Tribunal Judge MANUELL

Between

**Ms CHARLEEN VHIRINIZHU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Chohan, Counsel
(instructed by Genesis Law Associates)
For the Respondent: Ms A Everett, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge PJM Hollingworth on 27 November 2014 against the determination

of First-tier Tribunal Judge Rowlands who had dismissed the Appellant's appeal against removal on human rights (Article 8 ECHR private and family life) grounds in a determination promulgated on 8 October 2014.

2. The Appellant is a national of Zimbabwe, born on 21 August 1986. It is not necessary to repeat her immigration history in any detail which is set out at [3] and [4] of Judge Rowlands's determination. In essence the Appellant had entered the United Kingdom as a visitor on 28 March 2012, had tried to join the British Army but her application was withdrawn by the army on 21 October 2013. The judge found that there was no relevant private life in the United Kingdom. He also found that the Appellant's family bonds with her United Kingdom relatives were as an adult and there was no dependency and there were no exceptional circumstances. The judge referred at [15] of his determination to his consideration of section 117B of the Nationality, Immigration and Asylum Act 2002.
3. Permission to appeal was granted by the First-tier Tribunal in extremely brief terms, suggesting that Judge Rowlands had not addressed the full extent of the grounds of appeal. This may have been prompted by the inadvertent erroneous reference by judge Rowlands at [9] of his determination to the Refugee Convention. The appeal was only on Article 8 ECHR grounds as the judge correctly stated at [12] of the determination. That could and should have been confirmed from the original Notice of Appeal.
4. Standard directions were made by the tribunal, indicating that the appeal would be reheard immediately if a material error of law were found. A rule 24 notice dated 17 December 2014 opposing the appeal had been filed on the Respondent's behalf.

Submissions - error of law

5. Mr Chohan for the Appellant relied on the grounds of onwads of appeal and the grant of permission to appeal. There was nothing which he could usefully add.
6. Ms Everett for the Respondent relied on the rule 24 notice. The judge had reached a properly reasoned decision and there was no basis for interfering with it.
7. The tribunal indicated at the conclusion of submissions that it found no material error of law and reserved its determination which now follows.

No material error of law finding

8. It is not easy to see why permission to appeal was ever granted in this appeal. The onwards grounds of appeal failed completely to identify any arguable error of law. The original grounds of appeal lodged by the Appellant made no reference at all to Articles 2 or 3 ECHR, let alone asylum grounds. Nor did the Appellant raise any such issue in her evidence before Judge Rowlands. It is plain that [9] of the determination to which reference has already been made was an oversight by a hard pressed judge, and was an error which was not material. [12] of the determination set out the basis of the appeal accurately.
9. The judge's treatment of the evidence was sufficient and he set out his essential findings with clarity. The judge applied section 117B of the Nationality, Immigration and Asylum Act 2002 and plainly paid close attention to it. The judge was entitled to find on the evidence before him that there were no compelling, compassionate or exceptional circumstances which might have required the Secretary of State to consider the exercise of discretion outside the Immigration Rules in the Appellant's favour. It was manifest that the Appellant's removal was proportionate to the legitimate objective of immigration control. The Appellant had entered the United Kingdom for a temporary purpose only and the possibility of employment as a soldier had not come to fruition. The Appellant's home was in Zimbabwe. The judge's conclusions were manifestly open to him.
10. The tribunal accordingly finds that there was no material error of law in the determination and there is no basis for interfering with the judge's decision.

DECISION

The making of the previous decision did not involve the making of a material error on a point of law and stands unchanged

Signed

Dated 26 January 2015

Deputy Upper Tribunal Judge Manuell