



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

Appeal Number: HU/05107/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 20 June 2017**

**Decision & Reasons
Promulgated
On 22 June 2017**

Before

THE HONOURABLE MR JUSTICE COLLINS

Between

**MRS JAMILA KAMAL AL AZAWI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. This case has an unfortunate history. The appellant's husband is a British citizen who has lived here he tells me for 55 years. His wife came to this country in 2006 and they are married. He is not well and she is looking after him. Equally he has a sister who is very unwell and she helps to look after her as well. She was here as a Tier 4 student. Unfortunately the

college which she was attending lost its licence and so she was given the usual 60 day opportunity to find somewhere else. She did not succeed and as a result her leave expired whereupon the decision was taken that she should be removed notwithstanding that her husband is a British citizen. I should add that it is the appellant's case that she was never actually notified of the withdrawal of the licence and so the need to find another college. As Mr Azawi says if they had known that then steps would have been taken but as I say the result was that she lost her leave.

2. There was then a letter written to the Member of Parliament who had been contacted by Mr Azawi and in the course of that the Director General of Immigration Enforcement in a letter of 1 July 2015 indicated that Capita, outsourced to deal with these matters, was acting on behalf of the Home Office. That creates its own problems in certain cases and it has created a problem in this one but the final paragraph of the letter reads as follows, "if Mr and Mrs Azawi do not make immediate plans to leave the UK voluntarily, their removal will be enforced." That should never have been written. It is utterly disgraceful that we find the Director General of Immigration Enforcement writing a letter that indicates that a British citizen be removed. I use the word 'disgraceful' advisedly. It of course has created much ill-feeling on the part of Mr Azawi who has been concerned at this threat, as he regards it and understandably regards it and as he tells me he has not thought it sensible to travel abroad in case he would not be able to be allowed back into the country. That is a very bad start by the immigration people in relation to this case.
3. There was then an Article 8 appeal launched before the First-tier Judge. It is in issue that certain material which Ms Azawi says was served in the mainly medical evidence did not find its way before the First-tier Judge. Whether that be so or not the fact is that he took the view that on the material before him there was no sufficient evidence first on the medical side and secondly in relation to the appellant's evidence that she had been born in Dubai (indeed her birth certificate makes clear that that is the fact) and she had effectively lived her life there until she came to this country in 2006. She thus has no roots in Pakistan and she has no family left in Pakistan. Her parents and her brother are now dead and unfortunately the First-tier Judge took the view that there was not sufficient evidence to support that aspect of her case. It is submitted on behalf of the respondent that on the material before him the First-tier Judge was entitled to reach the decision that he did.
4. I am bound to say that it strikes me that it was a singularly harsh decision based upon even the material that was available then. Here was a marriage to a British citizen who was unwell, who had no connection whatever with Pakistan, to a wife who equally had very little connection to Pakistan and the Home Office view apparently is that they can go back to Pakistan. I suppose I have in my years dealing with immigration having been appointed President of the Immigration Appeals Tribunal as it then was in 1999 and done immigration work since, come across a large

number of poor decisions by the Home Office. This I am bound to say is one of the poorest. It seems to me that on the material that I now have and on the basis of the evidence that has been produced I should allow this appeal because I have to consider the human rights of both the appellant and her husband as at today. I am bound by Section 6 of the Human Rights Act because I am a public body and even if the First-tier Judge's decision was not wrong in law, as I say, it was a decision that lacked in my judgment compassion. Accordingly what I propose to do is to allow this appeal and to remit the case for reconsideration. I have advised Mr Al Azawi that he should, even if it means duplication produce bundles which contain all the up-to-date medical material and further evidence to make clear what the position is so far as the appellant is concerned and where she has spent her life and that she has no one in Pakistan and of course so far as her husband is concerned, I am not sure if he has ever been there but he certainly has no connections whatever with that country. I would urge as I say the Secretary of State to reconsider this matter in the light of what I have said but if she remains adamant then the matter will come before another First-tier Judge. It will not be the judge who dealt with the matter before. I think Mr Al Azawi that I can simply conclude by saying I hope it all turns out well in the end.

Notice of Decision

The appeal is allowed

No anonymity direction is made.



Signed

Date: 20th June 2017

Mr Justice Collins

TO THE RESPONDENT
FEE AWARD

If a fee has been paid, a fee award will follow.



Signed

Date: 20th June 2017

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Mr Justice Collins