



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

Appeal Number: PA/00059/2016

THE IMMIGRATION ACTS

Heard at Birmingham

On 25th August 2017

**Decision and Reasons
Promulgated**

On 19th September 2017

Before

UPPER TRIBUNAL JUDGE KING TD

Between

**MRS SARAH TEGHA HAFTIE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Martin of Counsel, instructed by Fountain Solicitors

For the Respondent: Mr S Kotas, Home Office Presenting Officer

DETERMINATION AND REASONS

1. On 23rd June 2015 the appellant entered the United Kingdom clandestinely and claimed asylum. Essentially such was on the basis that she was from Eritrea and would suffer violence or/and adverse treatment on account of her Pentecostal faith and because she left illegally would be regarded as having been a draft evader.

2. The appellant was interviewed in connection with her claim. The respondent refused her claim by a decision of 17th December 2015.
3. The appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Alis on 6th January 2017. In a determination promulgated on 10th January 2017 her claim was dismissed in all respects including her claim to be Eritrean.
4. The appellant seeks to challenge that decision.
5. Permission to do so before the Upper Tribunal was given, essentially on the basis that the Judge had failed to consider risk on return to Eritrea or indeed to Ethiopia.
6. Thus the matter comes before me to determine the issues under challenge.
7. The Judge at paragraph 50 of the determination highlights the issues with which he is concerned, namely:-
 - (1) Was she Eritrean?
 - (2) Was she a Pentecostal Christian?
 - (3) If she was Eritrean was she exempt from military service?
 - (4) Had she left the country illegally?

In essence the Judge found that she was not from Eritrea nor was she Eritrean and consequently the risk factors did not apply to her.

8. The determination is a detailed one. The appellant adopted her witness statements and gave oral evidence. She claimed to have been born in Ethiopia to Eritrean parents and to be a Pentecostal Christian. She said her language is Amharic but her parents spoke both Amharic and Tigrinya. They did not teach her Tigrinya nor did they tell her anything about her Eritrean roots other than to tell her that she was Eritrean. In 1999/2000 they were deported to Eritrea and lived in Campo Sudan with her uncle. In 2003 her father was caught praying at a house and taken away never to be seen again. In 2004 a decision was made for her to leave Eritrea back to Ethiopia. In 2011 the appellant was kidnapped and taken to Sudan in 2012 and from there she made her way eventually to the United Kingdom.
9. The Judge at paragraph 34 of the determination notes a number of matters which did not support her account of being Eritrean. Not least that she was unable to answer questions about Eritrea and had given contradictory accounts as to when she left Eritrea and when her father was taken away. The Judge also noted the conflict of evidence between

the appellant and her witness Dawit as to the claimed accommodation in Eritrea and also marked inconsistency as to the date at which she was baptised into the Pentecostal faith. At the interview she stated it was 2000 but in evidence she stated it was 2013.

10. In respect to some of the criticisms made as to her evidence, the appellant sought to indicate that she was unable to explain herself because she was uneducated. The Judge did not accept that explanation for the reasons given, particularly in paragraphs 54 and 55 of the determination.
11. The Judge looked closely at the claim she made to be a Pentecostal Christian and noted matters in paragraph 39 which raised concerns about that claim. Although Pastor Beyene had attended and indicated that she was part of the Pentecostal Community in the United Kingdom, he did not have detailed knowledge or direct knowledge of her because he did not deal with her in that church.
12. The fact that the appellant did not speak Tigrinya was one factor among a number that was considered as was her inconsistent account as to baptism and indeed the conflicting evidence as to how many people attend services at her neighbour's home. The Judge considered that the disagreement in evidence between the appellant and her witness was also of importance.
13. The Judge considered a letter from the Eritrean Community in Lambeth and for reasons set out in paragraph 60 gave it little weight. Little weight was given to the evidence of the pastor as to her faith.
14. The appellant sought to indicate that she had been trying to clarify her status and situation with the Ethiopian Embassy. The Judge for the reasons, particularly set out in paragraphs 63 and 65 of the determination, did not find that the relevant issues had been raised by her with that particular embassy, such as to show that she had made all reasonable efforts to clarify her situation and circumstances.
15. Mr Martin relies upon the general grounds of challenge to those findings. For my part I find little merit in such challenges. For the most part they cite general principles. It is clear that the Judge had looked at all relevant matters and made clear findings upon them. I find no error of approach.
16. As to the issue of return to Eritrea or Ethiopia it is said that the Judge failed to take account matters in relation to return. It is said that if the appellant were to be returned to Eritrea then she would be treated as an Eritrean and that would subject her to ill-treatment in any event. Reliance is placed upon the original decision in which it had been indicated that because she had claimed to be from Eritrea she would be returned there.
17. Mr Kotas, on behalf of the respondent, submits that that challenge is not well-founded. He invites my attention to the decision to remove made

under Section 10 of the Immigration and Asylum Act 1999 following the refusal of asylum. It is dated 17th December 2015 and indicates that if the appellant does not leave voluntarily direction would be given for her removal from the United Kingdom to Eritrea or Ethiopia. The Judge has found that the appellant is not from Eritrea. There is no reason why in commonsense she would be returned there but rather the focus is upon return to Ethiopia. In that connection my attention was invited to paragraphs 64 and 65 of the determination. Clearly the Judge had in mind that she would be returned to Ethiopia and had regard to **MA (Ethiopia) [2009] EWCA Civ 289** and to **ST (Ethnic Eritrean - nationality - return) Ethiopia CG [2011] UKUT 00252 (IAC)**. As recognised pursuant to **MA (Ethiopia)** the appellant must demonstrate that he or she has done all that could reasonably be expected to facilitate return as a national of Ethiopia. The Judge was not satisfied that the appellant had taken any basic steps to achieve this and provided little of the details that were required to facilitate their recognition. The Judge did not accept that she would not be accepted as an Ethiopian national if she cooperated with the process.

18. Clearly in assessing the issues that had been highlighted, the fact that the appellant is not Eritrean disposes in practical terms of the issues under consideration. There was nothing advanced in the grounds of appeal or before me to indicate that even if she were Ethiopian she would suffer any hardship in being returned.
19. As Mr Kotas indicated, the function of the Judge is to determine the issues in the case. Those issues were determined on the basis of the finding that whatever nationality the appellant may be she was not from Eritrea The probability being that she is from Ethiopia and the Judge understandably based certain of his remarks upon that assumption.
20. Looking at the matter overall I find that the Judge has been detailed in the analysis of the issues, that no significant consideration as to removal has been omitted. In fact I do not find there to be any material error of law.

Decision

The appellant's appeal before the Upper Tribunal is dismissed. The decision of the First-tier Tribunal dismissing her claim for asylum, humanitarian protection and human rights stands dismissed.

No anonymity direction is made.



Signed

Date 18 September 2017

Upper Tribunal Judge King TD

