



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00103/2016

THE IMMIGRATION ACTS

Heard at Field House
On 4th April 2018

Determination Promulgated
On 9th July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

MISS AY
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Layne (Counsel)

For the Respondent: Mr C Avery (Senior HOPO)

DETERMINATION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge A M Black, promulgated on 25th July 2017, following a hearing at Taylor House on 19th July 2017. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a female, a citizen of Pakistan, and was born on [] 1990. She has a child who was born on [], and who is dependent on her. She made her application for asylum and humanitarian protection under paragraph 339C of HC 395 which was rejected on 17th December 2015. The basis of the Appellant's claim is that if returned to Pakistan she would be killed by her family and the family of a Mr [AR], her cousin, because she has dishonoured both families by marrying in the UK, and having a child in that marriage.

The Appellant's Claim

3. The basis of the Appellant's claim is that when she was a child she was subject to an arrangement to be married to her cousin, [AR], whom she did not want to marry, so that she managed to persuade her parents to postpone the marriage until she had completed her education, including two years of study, in the UK. The Appellant then entered the UK with a Tier 4 Student visa on 16th September 2010, which she applied to extend, until she remained here with valid leave up until 15th September 2015. While in the UK she met a Mr [WN], a Pakistani national from Sialkot in Pakistan and they underwent a marriage on 7th January 2014, and then had a child on [], who was now 3 years of age. The couple subsequently became estranged, and the Appellant does not currently know her husband's immigration status. She kept her marriage secret from her family in Pakistan for fear of reprisals. However, she did speak to a friend about this on the telephone and the friend leaked this information on social media, which resulted in threatening telephone calls from her elder brother, Faraz, such that the Appellant's father disinherited the Appellant and published that disinheritance in a newspaper. She now fears that if she returned to Pakistan she would be killed by family members.

The Respondent's Case

4. The Respondent Secretary of State rejected the claims made by the Appellant for the following reasons. First, it was not accepted that the Appellant was subject to an arranged marriage. She had herself said that her parents expected her to marry [AR] before she was 18 and women are permitted to marry at 16 in Pakistan. However, she then left Pakistan to study in the UK at the age of 20 and her explanation that she had told her father she wanted to complete her education before she married was therefore not credible. Second, whilst it was accepted that she married [WN], the Appellant failed to provide evidence that the relationship had ended, so that it could not be taken to have ended. Third, the Appellant's evidence that she allowed her husband to upload images onto Facebook of their wedding day was not consistent with their wish to keep the marriage from her family in Pakistan. Fourth, the Appellant had provided a disinheritance letter and a newspaper detailing her "disownment" but a RALON verification report, confirmed that the affidavit to disown her was not genuine and not a valid document. Fifth, the fact that the Appellant had produced the document which was confirmed officially as not being genuine damaged her credibility. Sixth, a submission made by the Human Rights Council for its 1st October 2012 session and the

decision in **KA (Pakistan) [2010] UKUT 216** indicated that the Appellant would be afforded effective protection from Government and NGO shelters and crisis centres. Given that the Appellant had no medical conditions, her daughter had eczema and potentially epilepsy but which had not yet been diagnosed, centres in the private sector could afford effective assistance to someone in the Appellant's position. Finally, were the Appellant required to leave a shelter she would be able to relocate to an area in Pakistan outside her home area such as Karachi or Islamabad and background material indicated this was viable and reasonable.

The Judge's Findings

5. The judge only in his findings made the observation that the Appellant had made her asylum claim before her leave to remain expired, but that "she has given evidence which has the potential to undermine her asylum claim: she has said that, from the outset of her arrival in the UK, she had no intention of going back to Pakistan and into a forced marriage" but that she had seen the opportunities to study in the UK as a way of avoiding the false marriage and that "this has the ring of truth about it" (paragraph 33). The judge went on to find the Appellant to be a credible witness and to accept her account of being at risk from her family and that of the family of [AR] (paragraph 39).
6. However, the judge then moved on to a consideration of internal relocation in Pakistan. In this regard, consideration was given to the country guidance case of **SM (lone women - ostracism) Pakistan [2016] UKUT 67**, which was to the effect that,

"Any assessment of international protection needs will require a careful and fact specific assessment as to the nature, source and scope of the risk to the applicant at the date of the hearing, including taking into account the possibility, if the woman has family support, and no protector, or is educated, wealthy, or older, of internal relocation to one of the larger cities" (see paragraph 42 of the determination).
7. With this in mind, the judge went on to conclude that given that the Appellant had lived a relatively independent life in the UK since her arrival, initially with her paternal aunt, and then with her husband after their marriage, and had demonstrated a degree of tactical and financial independence, she had a degree of resilience and strength of mind so as to be able to access internal relocation (paragraph 47).
8. The appeal was dismissed.

Grounds of Application

9. The grounds of application state that the Appellant could not relocate to another part of Pakistan. It is also, however, added that two of the Appellant's brothers were active members of the political party, Islamia, Jamaat in Pakistan and were influential enough to trace the Appellant and to deal with her. Furthermore, the Appellant had no male support in Pakistan.
10. On 4th January 2018, permission to appeal was granted with the caveat that, "whilst slow to grant permission" the judge had arguably failed to deal with the Appellant's

family's political connections and failed to arguably consider whether it would be unduly harsh for the Appellant to relocate in Pakistan.

11. On 23rd January 2018 a Rule 24 response was entered to the effect that the judge had properly considered the relevant case law at paragraphs 41 to 42 and had then also considered the issue of internal relocation quite properly at paragraphs 45 to 49, such that the appeal was simply a disagreement with the decision.

Submissions

12. At the hearing before me on 4th April 2018, Mr Layne, appearing as Counsel on behalf of the Appellant focused on the fact that the judge had plainly recognised that the Appellant was a single and unaccompanied woman who was being forced to return to Pakistan (at paragraph 48), but that the objective evidence that the judge had properly set out for consideration, had not then been followed through in any plausible manner. First, there was a reference to paragraph 7.5.1 of the Respondent Secretary of State's note (set out at paragraph 48 of the determination) which recognise that "it was 'next to impossible' for a single woman to live alone in Pakistan due to prejudices against women and economic dependence". Moreover, even if a woman is educated, higher class, and working, "it was reported to be easier to live alone, although this was still quite a rare occurrence". Mr Layne submitted that even if the latter can be described to be the Appellant's position, in that she is educated and resourceful, it would still be "quite a rare occurrence" for a person in a position to be living alone, especially given that she had a child. Second, in the same way paragraph 7.5.2 of the same Respondent Secretary of State's note, then went on to state that in a patriarchal society like Pakistan "stereotypical societal norms are, in general, not favourable towards women who work and live alone in another city". This being so, submitted Mr Layne, the judge's reasons thereafter at paragraph 49 could not be upheld when she stated that the Appellant "is an educated and resourceful young woman" who would be able "to find well-paid and steady employment" and that "she could pay for childcare for her daughter to cover her working hours", as well as be in a position to earn enough income which would be sufficient "to cover accommodation for her daughter and herself and to maintain them as a family unit" (paragraph 49).
13. For his part, Mr Avery submitted that this was nothing more than a disagreement with the findings of the judge. In what was a very thorough determination by the judge, where the internal flight alternative had been properly considered at the outset from paragraph 42 onwards, covering no less than two pages, the judge had dealt with every relevant matter in relation to the Appellant and come to a conclusion that she was entitled to come to.
14. In reply, Mr Layne submitted that whereas the judge stated that the Appellant could take a job in Karachi or Islamabad she did not explain what the nature of the job market was. At this point Mr Avery interrupted to say that it was always open to the Appellant's legal representatives to make out a case for saying that the job market was not shapeable to the Appellant but this was not done and it was not proper now to raise it at this stage. Nevertheless, Mr Layne proceeded to state that the Appellant was

young, not an older woman, and she was not experienced, and she was with a child, without a male relative to look after her, such that she would be at risk and find internal relocation to be unduly harsh.

No Error of Law

15. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision and remake the decision. My reasons are as follows.
16. First, in what is a carefully and meticulously crafted determination, the judge at the outset begins with the country guidance case of **SM (Pakistan) [2016] UKUT 67** observing that there has to be a “careful and fact specific assessment, bearing in mind, ‘if the woman has family support, a male protector, or is educated, wealthy or older...’” (paragraph 42).
17. Second, thereafter, the judge does make findings of fact in relation to how this particular Appellant, although without a male protector, “is an educated woman” who has demonstrated “a degree of practical and financial independence” and shown “a degree of resilience and strength of mind” (paragraph 47). These findings were entirely in accordance with what was expected in the country guidance case of **SM (Pakistan)**.
18. Third, the judge is equally just as alive to the sort of risks that would attach to a single and unaccompanied woman. So much so that paragraph 7.5 of the Respondent’s note is carefully set out and it is observed that even for educated and higher class women it would still be “quite a rare occurrence” to expect them to be living alone. What is clear from this, however, is that this does not mean that it would be impossible, such that it could never be shown that a woman would be living alone as an educated and higher class woman.
19. Fourth, in the same way, the judge notes that there are security concerns and social constraints upon divorces which would stigmatise them and subject them to social rejection. The effect of this is that there are stereotypical societal norms towards women working and living alone.
20. Finally, however, all of this leads the judge, as it inevitably must do, to making a factual finding on the evidence before her. There is nothing whatsoever in these findings, made especially carefully at paragraph 49, that suggests that these findings were not open to the judge. She makes it plain that the Appellant is “an educated and resourceful young woman”. She would be able to find a “well-paid and steady employment”. She could pay for the childcare for her daughter. Her income would be sufficient to “cover accommodation for her daughter and herself”. These conclusions are not just drawn from the air. The judge goes on to explain that

“She has demonstrated she is able and willing to work to support herself and pay for her studies. She is well educated, both in Pakistan and the UK, and I am satisfied she could find employment in Pakistan in due course and that such employment would give her a good income”.

21. Moreover, the judge goes on to explain that “given that she is currently supported in the UK it is reasonable to assume such family would continue”. There has been no argument made before me today that such family would not continue. The judge goes on to explain that “she has the benefit of financial and practical support in the UK and I find that those who support her here would continue to do so, at least in the initial stages of her return...”.
22. In fact, as the judge points out, “the Appellant herself did not deny in oral evidence that she could work in Pakistan albeit she said it would be difficult”. (Paragraph 49). What is no less important, in terms of security concerns is the judge’s observation that, “for the avoidance of doubt, whilst it was not submitted on her behalf that the Appellant was at real risk of harm from her husband on return, I find there is insufficient evidence to indicate as much” (paragraph 50).

Notice of Decision

23. There is no material error of law in the original judge’s decision. The determination shall stand.
24. An anonymity direction is made.

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 him or any member of their 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.

Signed

Dated

Deputy Upper Tribunal Judge Juss

7th July 2018