



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/03303/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 28 February 2018**

**Decision &  
Promulgated  
On 20 March 2018**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY**

**Between**

**RB**

(ANONYMITY DIRECTION MADE)

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms J Fisher, of Counsel instructed by M & K Solicitors

For the Respondent: Ms Z Ahmad, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan born on 4 February 1990. She appeals against a decision of Judge of the First-tier Tribunal Ghani who in a determination promulgated on 26 July 2017 dismissed the appellant's appeal against a decision of the Secretary of State to refuse to grant asylum.
2. The appellant had initially entered Britain with her mother and her brother in 2011. They had claimed asylum on the basis that they feared the Taliban. Their applications were refused and the subsequent appeal was dismissed. In March 2016 the appellant submitted a fresh claim on the

basis that she was an unmarried woman who had had a relationship outside marriage and that she feared an honour killing if she returned to Pakistan as she had received threats from her family there. She stated that she had formed a relationship in Britain with a Muslim man and that she had eventually become pregnant. Her boyfriend had not wished to have anything further to do with her and she had had an abortion. She stated that she had been informed by other members of her family that her family were planning to kill her and her mother.

3. The judge set out her findings in paragraphs 23 onwards of the determination. She did not appear to find the appellant's claim was credible giving certain reasons for that conclusion. Her conclusion reached in paragraph 31 of the determination was:-

"I find that in all probabilities, her relationship with her claimed boyfriend had been entered into for the purposes of a fresh asylum claim. It is highly likely that they would have entered into an Islamic marriage as the behaviour which the Appellant claims they displayed is totally out of character for someone as the Appellant who belongs to a very strict Muslim background. I do not find the Appellant's claim to be credible. The Appellant is not a Refugee entitled to Refugee status under the 1951 Convention."

4. She went on to state, however, that even if the appellant's account were to be believed it was appropriate for her to apply the principles in **Devaseelan [2002] UKAIT 00702** which had dealt with the issue of internal relocation. She also stated that she had considered the appellant's documentation in line with the principles in the case of **Tanveer Ahmed** and therefore little weight could be attached to those documents. Again she concluded that the appellant did not qualify for leave to remain under Article 8 of the ECHR.
5. Grounds of appeal argued that the conclusions of the judge were not open to her and that the judge did not give reasons for her various conclusions. Ms Ahmad stated that she did not oppose the appeal.
6. I consider that there are material errors of law in the determination.
7. Firstly, the judge stated that she relied on the decision of the first judge who dealt with the appellant's appeal when she had initially claimed asylum. In particular she referred to the finding that internal relocation be open to the appellant. The reality, however, is that the decision of the first judge had nothing to do with the appellant's present claim. In that decision the judge considered whether or not the appellant would be able to relocate with her mother and brother and that they were fleeing from the Taliban. That is a completely different situation where the appellant is, as she now claims, in fear of her family and would not be accompanied by either a brother or any other family member.

8. Secondly, it is unclear what the judge meant by stating that she applied the principles of **Tanveer Ahmed** to the documentary evidence. These included:

- Letter from Birmingham Solihull Women's Aid dated 10 November 2015
- Letter from BPAS Birmingham Central Clinic dated 11 March 2016
- Letter from Asian Family Counselling Service dated 2 December 2016
- Letter from Asian Family Counselling Service dated 17 November 2015
- Letter from Pearl Medical Centre dated 16 September 2015

The documentary evidence submitted related to contact with the health service and with the police. These are not documents to which the principles in **Tanveer Ahmed** could apply – the principles in that case relate to whether or not documents are genuine or not. The reality is that the documents which the appellant produced on which she wished to rely were clearly genuine documents. While it may be that the information contained therein could be questioned, the genuineness of the documents cannot. Furthermore, the judge's findings appear to be contradictory. She appears to state that the appellant would not have had sexual relationships with a boyfriend unless they were married but then, of course if that were the case, there would be no reason for the appellant to have had an abortion. Moreover, the judge states that the relationship was entered into so that the appellant could claim asylum. That conclusion is unreasoned and unclear.

9. I consider that Ms Ahmad was correct not to oppose this appeal and for the above reasons I set aside the determination of the First-tier Judge. I direct that the appeal will proceed to a hearing afresh in the First-tier.

### **Notice of Decision**

The determination of the First Tier Tribunal is set aside.

### **Direction**

The appeal will proceed to a hearing afresh in the First-tier.

Signed

Date: 18 March 2018



Deputy Upper Tribunal Judge McGeachy