



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05985/2017

THE IMMIGRATION ACTS

Heard at Liverpool
On 20 July 2018

Decision & Reasons Promulgated
On 3 August 2018

Before

DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL

Between

SYEDA SABA SHAH
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Karim, Counsel, instructed by AWS Solicitors
For the Respondent: Mr N Bramble, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The appellant, a citizen of Pakistan, has permission to challenge the decision of Judge A K Hussain of the First-tier Tribunal (FtT) sent on 10 April 2018 dismissing her appeal against the decision made by the respondent dated 20 February 2017 refusing her protection claim.
2. As I indicated to the parties, several of the appellant's grounds are amongst the most specious I have read. For example to assert as does ground 1 that a judge errs if he assesses whether an asylum claim is credible is nonsensical. To assert at ground 4 that a judge errs in not applying paragraph 339K irrespective of whether the claim of past persecution has been found to be credible, is wholly back to front.
3. Nonetheless two of the grounds are in a different category. As regards the first of these, ground 2, which alleges that the judge failed to make findings on the letters

from the appellant's relatives, I do not consider this allegation is made out. At paragraphs 5-7 the judge makes clear that notwithstanding they were submitted untranslated he would take into account what was said to be their contents. Whilst there is thereafter no specific analysis of the letters and the potential weight they might carry, the judge's statement at paragraph 10(m) does indicate that the letters were taken into account. At paragraph 10(m) the judge stated:

"10(m) Having returned to the United Kingdom, she says she received threats by text and Whatsapp messages for months. When asked why there was no evidence of this, her explanation was that she had dropped her mobile telephone down the toilet which in the context of her evidence as a whole, I viewed as convenient. In effect, there was no credible evidence of a forced marriage situation, that her family were upset with her refusal or that they had made threats to kill her. The appellant herself was not credible. It is in this context that the importance of the missing letters is important. However, again in the context of the whole, they would have carried little or no weight."

4. There remains ground 3, however, which asserts that the judge failed to evaluate or give reasons for rejecting the expert report. I see no proper answer to this criticism. Mr Bramble sought to submit that the judge's failure to expressly address the expert report was not material, but that simply cannot be said with any confidence in respect of the particular report in question by Mrs Uzma Moeen dated 15 July 2017, which was not only prepared by an experienced and established country expert, it was prepared on the basis of having read the asylum interview and the respondent's reasons for refusal, and its contents specifically addressed issues regarding the plausibility of the appellant's account, reaching a positive opinion. The contents of this report potentially had a material impact on the assessment of the appellant's credibility. Failure to address this evidence constituted a material error of law necessitating that I set aside the judge's decision.
5. In light of this material error the judge's assessment of credibility cannot stand. I see no alternative to remitting the case to the FtT to be determined afresh.
6. To conclude:

The decision of the FtT judge is set aside for material error of law.

The case is remitted to the FtT. No findings of fact are preserved.

No anonymity direction is made.

Signed:

Date: 1 August 2018



Dr H H Storey
Judge of the Upper Tribunal