



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/02562/2019**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 27th August 2019**

**Decision & Reasons Promulgated
On 6th September 2019**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MRS MUST FATEHA BEGUM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Z Rahman (MRKS Solicitors)

For the Respondent: Ms J Isherwood (Senior Home Office Presenting Officer)

DECISION AND REASONS

This is an appeal to the Upper Tribunal by the Appellant in relation to a Decision of the First-tier Tribunal, Judge Groom, promulgated on 1st April 2019 after a hearing at Nottingham on 27th March 2019.

The Appellant is a national of Bangladesh who came to the UK on 2nd December 2015 as the spouse of a British citizen and she made the application, subject to the appeal in August 2018. The refusal was dated 23rd January 2019. The Appellant and her husband gave evidence before the judge and their case was that her husband, a British citizen, needed her care in the UK, could not go to Bangladesh and that also both she and he provided care for his mother, another British citizen, in the UK.

The main ground of appeal pressed before me was the failure of the judge to take into account such medical evidence as there was in relation to the Sponsor's medical conditions. When the matter first came before the Upper Tribunal, Deputy Upper Tribunal Judge Phillips adjourned the matter and gave permission for the Appellant to vary the grounds to the Upper Tribunal to include medical evidence in relation to the various persons concerned. That evidence was provided to Judge Phillips in a bundle.

It is that ground which is particularly relied upon today, namely that the First-tier Tribunal had erred and made a procedural error in failing to take into account medical evidence. However, the only medical evidence that was available for the First-tier Tribunal was a carrier bag full of medication, which the judge declined to look at. No proper medical evidence was contained in the bundle nor offered on the day and there had been no application prior to the hearing for an adjournment in order to obtain medical evidence. The judge was not in error in failing to look at the medication because the judge is not a doctor or a chemist and looking at bottles of medication would not have assisted her in identifying what the nature or extent of the Sponsor's illnesses were.

The judge did note, at paragraph 17 of the determination, that whilst the Sponsor had medical issues, he worked three hours a day for two days a week as a kitchen porter in a restaurant and she therefore did not accept that, if he chose to return to Bangladesh with his wife, he would be unable to find similar work there and that the health conditions that the Appellant's husband had had not prevented him from either being able to work in the UK or providing some level of care for his elderly mother. The judge noted that it was notable that the Appellant's husband claimed that, if his mother was unwell, he stayed overnight with her, implying that his own level of debility had not prevented him from looking after the needs of another.

The judge went on to say that while it may be the case that the Appellant and her husband may not choose to relocate to Bangladesh, there were no insurmountable obstacles to that happening. That again is referred to at length in paragraph 22 considering private and family life, and again, of course, it is a matter for the Sponsor whether in fact he returns to Bangladesh with his wife or not. One of the major factors which were clearly factored into the judge's reasoning was the fact that the Appellant had spent fifteen years as a single parent in Bangladesh while her husband was in the UK, bringing up their six children with very little assistance or support from him.

It cannot be said that a judge errs in failing to take into account evidence that was not put before the judge and therefore I find the judge in this case has made no error of law material or otherwise and the appeal to the Upper Tribunal is dismissed.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.



Signed
2019

Date 2 September

Upper Tribunal Judge Martin

I have dismissed the appeal and therefore there can be no fee award.



Signed
2019

Date 2 September

Upper Tribunal Judge Martin