



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

Appeal Number: PA/08770/2017

THE IMMIGRATION ACTS

Heard at Birmingham Civil Justice Centre

Decision & Reasons

On 1st April 2019

**Promulgated
On 29th April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**MISS L G L
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Johal (Counsel)

For the Respondent: Mrs H Aboni (Senior HOPO)

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Asjad, promulgated on 28th March 2018, following a hearing on 26th February 2018. 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 citizen of Cameroon, was born on 24th July 1992, and is a female. She appeals against the decision of the Respondent dated 4th August 2017, refusing her application for asylum, and for humanitarian protection, pursuant to paragraph 339C of HC 395.

The Appellant's Claim

3. The essence of the Appellant's claim is that she has connections with the Southern Cameroon National Council ("SCNC"), such that she would be at risk of persecution if returned to Cameroon. She used to live with her aunt and her mother. Her aunt was a staunch member of the SCNC. The Appellant herself became interested in the goals and objectives of this group in 2008. She proceeded to become an active member of the SCNC in October 2011. The Appellant claims to have been arrested on 29th November 2010 and on 1st October 2011.

The Judge's Findings

4. The judge concluded, in what was a detailed, comprehensive and well-crafted determination, that the Appellant's claim lacked all credibility, on account of internal inconsistencies and contradictions. She had arrived in the UK as a student on 14th September 2015, but did not claim asylum until 2017. The Appellant's account of her arrest on 1st October 2011 was different from that given by Mr Arrey, in his affidavit as the "acting national secretary general" of the SCNC, in which he does not even claim to know the Appellant. The Appellant's account of the earlier incident of 29th November 2010 was internally inconsistent, and the Appellant was not even clear whether she was arrested at all. Indeed, the Appellant demonstrated a lack of knowledge about the SCNC. As for an expert report produced by Ticky Monekosso, the judge gave ample reasons for why this evidence was unreliable. In the end, the judge was left to conclude that the Appellant's account and documents in support are contradictory, and she had not been able to show she was a member of the SCNC. She claimed to have engaged in sur place activities in the UK, but there was only one attendance at one demonstration in March 2017, and this did not show a risk of persecution upon return. The Appellant had entirely fabricated her claim (see paragraph 47).
5. The appeal was dismissed.

Grounds of Application

6. The grounds of application state that the judge failed to ascribe appropriate weight to the evidence before the Tribunal; wrongly concluded that the Appellant was not a credible witness; ignored the "voluminous evidence of the Appellant's problems"; failed to ascribe appropriate weight to the circumstances of the Appellant; and "failed to consider Article 8 outside of the Rules".

7. On 11th May 2018, permission to appeal was granted. This was not without the Tribunal, before granting permission, stating that the judge had given ample and “cogent reasons” for disbelieving the claim. However, whilst noting at page 1 “of an admirably clear Record of Proceedings”, that there was “no Article 8”, the judge had nevertheless gone on to conclude (at paragraph 48) that,

“I therefore dismiss her claim for asylum, humanitarian protection as well as Articles 2, 3 and 8. The Appellant’s parents remain in Cameroon. She has lived and studied there all her life. She could easily establish herself in Cameroon, find work and support herself”.
8. In granting permission, it was stated that, given that the judge had gone on to deal with Article 8, it was incumbent upon her to apply the principles in “**Razgar**”, in order to ensure that it was clear that there was no disproportionate interference with the Appellant’s Article 8 rights.
9. On 11th July 2018, a Rule 24 response was entered by the Secretary of State. It is detailed and noteworthy. It makes it clear that the Appellant had not submitted any Article 8 grounds. This being so, the fact that the judge went on to deal with them was an immaterial error on her part. This was particularly so given that the Appellant had entered the UK as a student in September 2015, and claimed asylum months after her student visa expired on 9th February 2017. The Appellant had only been in the UK for two years, pursuing an asylum claim. It was difficult to see, without any evidence to the contrary, that a private life could be established under paragraph 276ADE.

Submissions

10. At the hearing before me on 1st April 2019, Mr Johal, appearing on behalf of the Appellant, submitted that he would have to accept that no Article 8 claim had been put before the judge. He would have to accept that there was nothing in the Appellant’s witness statement referring to any tangible Article 8 claim. He would have to accept that no such claim was advanced before the Tribunal on the day of the hearing, although he himself was not Counsel representing the Appellant on that day. Nevertheless, the fact that the judge did then proceed, having initially set out that there was “no Article 8” claim, to deal with Article 8, meant that the judge may possibly have fallen into error, in not considering everything that ought to have been considered in a proper manner.
11. For her part, Mrs Aboni submitted that there was no Article 8 argument ever raised. She relied upon her Rule 24 response. There may be some evidence of a private life, but it was not enough to lead to a conclusion that its violation was disproportionate with respect to the Appellant’s rights. The plain fact was that the Appellant could never succeed on Article 8 grounds. Indeed, no Article 8 grounds had ever been put. She had only been in the UK for about two years. During that time she had only pursued an Article 8 claim after her leave to remain as a student expired.

12. In reply, Mr Johal submitted that the duration of time in the UK is only one factor. Nevertheless, he was not in a position to demonstrate that there were indeed “very significant obstacles” to the Appellant returning back to Cameroon.

No Error of Law

13. 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 re-make the decision. My reasons are as follows.
14. In a commendably clear and comprehensive determination, the judge gave entirely sustainable reasons for why this claim could not succeed. The Grounds of Appeal only tangentially refer to Article 8 (at paragraph 6(f)), and even then simply state that the judge “failed to consider Article 8 outside of the Rules”, without at any stage setting out what the Article 8 claim was. The bulk of the grounds of application relate to an expert report (paragraph 8), and to the judge’s findings, alleging that no adequate reasons were given for those findings, which is manifestly false. It is also said that the Appellant’s bundle showed “a number of documents all of which were in favour of the Appellant’s claim that she is at risk of persecution in Cameroon”, (paragraph 11), without actually demonstrating why the judge’s conclusion that the Appellant herself was not at risk was in error.
15. Before this Tribunal, Mr Johal, to his credit, has only focused upon that aspect of the claim upon which permission has been granted, namely, on the Appellant’s Article 8. To his credit also, he has only said that which he is in a position to say, not having appeared before the Tribunal below, and has made it quite clear that there is no evidence that there are “very significant obstacles” to the Appellant returning back to Cameroon. That leaves, therefore, the question of the judge’s own treatment of the Article 8 claim. I deal with this as follows.
16. First, it is plain that the judge started on the basis that there was “no Article 8” claim. This was, as Mr Johal has submitted before me today, because there was nothing in the Appellant’s witness statement with respect to the Article 8 claim, and nothing by way of evidence on the day of the hearing, or submissions, before Judge Asjad, in relation to Article 8. In short, Article 8 was simply not raised.
17. Second, insofar as the judge does refer to this question herself at paragraph 48, the findings that she made were entirely open to her, and were wholly sustainable. What the judge has here said is that the Appellant cannot succeed because she has lived and studied all her life in Cameroon. She could easily establish herself in Cameroon. Moreover, she could find work and support herself there.

18. There is absolutely nothing anywhere before the judge to have suggested that these conclusions were not open to the judge to come to. No evidence was put before the judge which in any way detracts from these conclusions as being not open to her to make. There is, accordingly, nothing in this appeal. It is hopeless. I dismiss it.

Notice of Decision

19. The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision shall stand.

20. An anonymity direction is made.

21. The appeal is dismissed.

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 her 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

Date

Deputy Upper Tribunal Judge Juss

25th April 2019