



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

Appeal Number: HU/08902/2019

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice Centre
On 5 March 2020**

**Decision & Reasons
Promulgated
On 20 March 2020**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

**NAIMA TALIB
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. O. Sobowale, Counsel, instructed by NIDO
For the Respondent: Mr. C. Bates, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against a decision of First-tier Tribunal Judge Juss, promulgated on 13 September 2019, in which he refused the Appellant's appeal against the Respondent's decision to refuse leave to remain on human rights grounds.
2. Permission to appeal was granted as follows:

“While the Judge is certainly emphatic on the appellant’s lack of credibility, it is arguable that insufficient reasons are given to justify his conclusions.”

The hearing

3. At the outset of the hearing, Mr. Bates conceded on behalf of the Respondent that the decision involved the making of a material error of law. He accepted that there was a lack of adequate reasoning, in particular with reference to the finding that the Appellant would not face problems with her family in Pakistan.
4. Given this concession, and in agreement, I stated that I found the decision involved the making of a material error of law. I set the decision aside.

Error of Law

5. It is submitted in the grounds that the Judge failed to consider the Appellant’s circumstances as a lone woman when finding that the Appellant’s whole claim was a fabrication. At [11] the Judge commences his reasons and decision.

“First, the entire claim being put forward by the Appellant is a complete fabrication. It is an elaborate design to hoodwink the authorities into thinking that she is a “lone woman” who cannot return back to Pakistan as she would be at risk of ill-treatment.”

6. The Judge goes on to set out the Appellant’s travel between Pakistan, Ireland and the United Kingdom and then states: “Everything else about her claim is a complete fiction thereafter”. Later in the same paragraph he states that it is “simply not credible” that after her husband failed to get a spouse visa to join her in Ireland he got very angry and broke off links with her. There are no reasons given for this except for by reference to some WhatsApp messages which the Judge finds to be “deliberately contrived”. It was submitted in the grounds that there was no Presenting Officer at the hearing and that the contents of these WhatsApp messages were never put to the Appellant. This finding has therefore been made without an opportunity being given to the Appellant to address the Judge’s concerns with this evidence.
7. Later in the same paragraph the Judge finds that “it is plain” that the Appellant is still in touch with her husband. No reason is given for this other than the finding that “what she now says is simply not credible”. He also finds that it is not credible that the Appellant’s husband’s family were against her marriage to him. He describes her account as “this entire fictitious claim” and states that “a careful look at the evidence shows why this is so”.
8. However from [12] onwards there is insufficient reasoning given for why the Judge has not found the Appellant’s account credible. There are inadequate reasons given for his finding that the Appellant’s spouse’s

family was not against the marriage. At [12] he states that the Appellant “eloped” to marry her husband. He sets out her evidence that it was when the application in Ireland was rejected that she started to have problems with her husband. There is nothing inherently incredible in this, but the Judge simply finds that it is not credible without giving reasons. He has failed to explain why it is not credible that the Appellant’s spouse’s failure to get a visa so that he could leave Pakistan and join her would not have caused problems either with her spouse or with her family.

9. I find that the Judge has given insufficient reasons for rejecting the Appellant’s account of her family problems, namely the separation from her husband, and him being threatened by her family. It was accepted by Mr. Bates that this was the case. It follows therefore that inadequate reasons have been given for the conclusion at [17] that the Appellant will not have any difficulty returning because “she has a husband to whom she is returning”, and a “wider family there which poses no threat whatsoever to her”.
10. As accepted by the Respondent, I find that the decision involves the making of a material error of law. I have taken account of the Practice Statement dated 10 February 2010, paragraph 7.2. This contemplates that an appeal may be remitted to the First-tier Tribunal where the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for the party’s case to be put to and considered by the First-tier Tribunal. Given the nature and extent of the fact-finding necessary to enable this appeal to be remade, as the credibility findings cannot stand, and having regard to the overriding objective, I find that it is appropriate to remit this case to the First-tier Tribunal.

Decision

11. The decision of the First-tier Tribunal involves the making of material errors of law and I set the decision aside.
12. The appeal is remitted to the First-tier Tribunal to be reheard de novo.
13. The appeal is not to be listed before Judge Juss.

Signed

Date 16 March 2020



Deputy Upper Tribunal Judge Chamberlain