



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Ce-File Number: UI-2022-000548
First-tier Tribunal No: HU/50766/2020
IA/00333/2021

THE IMMIGRATION ACTS

Decision & Reasons Promulgated
On the 28 February 2023

Before

UPPER TRIBUNAL JUDGE LANE

Between

GUPREET KAUR GOMES
(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Tan, Senior Presenting Officer
For the Respondent: Mr Hussain

Heard at Manchester Civil Justice Centre on 7 November 2022

DECISION AND REASONS

1. The appellant is a citizen of India who was born on 25 July 1976. She arrived in the United Kingdom as a student in 2006. She met her current partner in 2011 and began living with him in 2014. The appellant applied for leave to remain on the basis of her private life. She was refused and appealed to the First-tier Tribunal which dismissed her appeal. . In August 2017, she claimed asylum. That claim was refused on 19th February 2018. On 20th June 2019, the appellant submitted a fresh claim which was also refused on 20 October 2020. She appealed against that decision to the First-tier Tribunal which dismissed her appeal. the appellant now appeals against that decision to the Upper Tribunal.
2. The First-tier Tribunal [6] summarises the background to the appeal as follows:

The appellant is of the Sikh faith. She is in a relationship with a Pakistani national of the Muslim faith. There is no challenge by the respondent to the genuine and subsiding nature of this relationship. The appellant and her partner ['the couple'] claim that their lives would not be safe in either India or Pakistan because they would be unfairly targeted in either country because of their inter-faith relationship. They say that there are very significant obstacles to their relationship continuing in either India or Pakistan and that the decision to remove the appellant from the UK disproportionately breaches her article 8 rights.

3. The claim advanced by the appellant before the First-tier Tribunal that she would be the subject of honour killing by her own family was rejected by the judge. At [37], the judge wrote:

The appellant lived in an inter-faith marriage in India between 2002 and 2006. She does not say that she came to harm from her family or others. In oral evidence in this hearing the appellant did not assert assertion that she is at risk from her immediate family. I do not find that she is.

The grounds to the Upper Tribunal do not refer to this aspect of the appeal. I shall not consider it further.

4. Ground 1 is without merit. It is asserted that the appellant and his partner gave a sound and credible reason to support their claim that the partner's United Kingdom-based family would not support them when living abroad, namely that doing so would, in the words of the appellant's partner, 'it would look like they [the family] were funding terrorism.' At [32], the judge does not reject that reason in terms but makes the firm finding that the United Kingdom family would not perform 'a volte-face' by ceasing support altogether. It is tolerably clear that the judge has rejected the only reason out forward by the appellant and her partner. That reason is, frankly, very weak. Thousands of people support family members living abroad without being accused of supporting terrorism. It would have been helpful if the judge had expressly rejected the reason given but his failure to do is not an error of law sufficient to justify setting aside the decision.
5. Ground 2 is also without merit. The appellant relies on the expert evidence of Dr Holden and asserts that the judge gave no reason for rejecting her evidence of 'the situation in India.' The judge had noted that the parties accept that the couple cannot live safely in Pakistan but considered that they could do so in India.
6. Contrary to what is asserted in the grounds, the judge does address Dr Holden's evidence at [33-40]. He notes that the expert considers that 'cohabitation is in principle possible in India' adding that the CPIN evidence indicated that there is 'more tolerance of inter-faith couples in urban areas' to which the appellant and her partner could be reasonably expected to relocate. Dr Holden does not expressly state that married partners from different communities cannot live safely in urban areas of India and it was legitimate for the judge to take these two pieces of evidence together as indicating that there are area of the country where the couple could live without being exposed to a real risk of harm.
7. At [42], the judge states:

In her addendum at paragraph 31, Dr. Holden says that the absence of a formal invitation and absence of co-operation from the appellant's family is likely to 'entrench the possibility of a visitor visa'. I am not assisted by this opinion which does not, on the face of it read clearly. If I am to interpret 'entrench' as to mean make it more difficult, Dr. Holden's evidence does not address the possibility that the invitation to visit comes from the appellant herself. In submissions, Mr. Aziz on behalf of the appellant conceded that the appellant could provide an invitation to her partner.

The grounds do not engage at all with this part of the judge's analysis. I agree with the judge that the language used by Dr Holden is opaque. The paragraph also provides good evidence of the judge's engagement with the expert evidence and his reasoned disagreement with her opinions (in this instance, a disagreement apparently shared by the appellant's representative).

8. Ground 3 is not made out. The appellant seeks to rely on retract the concession made her representative that the appellant could sponsor her partner (see [4] above). Given that the appellant's representative had openly made the concession in oral submissions, there was no need for the judge subsequently to go through the papers looking for reasons to reasons to reject that concession. On the basis of all the evidence, the judge's finding at [43] was carefully considered and reasonably open to him:

I find that the appellant has lived in India for the majority of her life. She is familiar with language, customs and traditions. She has a degree in commerce (refusal letter paragraph 80); she was employed and could be employed again as a teacher or in another field. From there, and within a reasonable timeframe she could secure accommodation necessary to sponsor her partner's entry to India.

After a detailed discussion of the evidence regarding the process for obtaining immigration visas in India, the judge concludes:

The 'visa process' provides a realistic route to entry, settlement and citizenship. The burden's (*sic*) placed on the appellant (and her partner) are not so significant to disproportionately breach her article 8 rights.

On the evidence, that was a finding reasonably available to the judge. Neither Dr Holden's evidence nor that of the appellant and her partner compel a different conclusion.

9. In the circumstances, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 10 January 2023