



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER
Extempore

Case No: UI-2022-001761

First-tier Tribunal Nos:
HU/52111/2021
IA/08123/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 6 April 2023**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MS MANJIT KAUR
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: no appearance

For the Respondent: Ms S Cunha, Home Office Presenting Officer

Heard at Field House on 23 December 2022

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Aldridge promulgated on 28 January 2022 dismissing her human rights appeal. That was an appeal against a decision of the Secretary of State to refuse to grant her leave to remain on a human rights basis. The appellant did not appear at 10 a.m., the time fixed for the hearing, nor had she appeared by the time the matter was called on for hearing at half past 11. No explanation for her failure to attend has been provided and I am satisfied from the court file that due notice of the time, date and venue of the hearing was served on her and on her representatives who are still on record. In circumstances and absent any

explanation for her failure to attend, and bearing in mind Rule 2 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the overriding objective I am satisfied it is in the interests of justice to proceed to determine the appeal.

2. The appellant is a citizen of India. She has been present in the United Kingdom since 2010 and has overstayed since 29 July 2010. Her case is that she was the victim of domestic violence and fears her estranged husband and his family on return to India. She claims that she fears sexual exploitation, homelessness and destitution as a lone female in addition to the fears for her life at the hands of her husband. She did, however, specifically state that she did not wish to make a claim for asylum.
3. The judge did not accept that removing the appellant would be in breach of her rights pursuant to Articles 3 or 8 of the Human Rights Convention, nor was he satisfied that the appellant met the requirements of paragraph 276ADE(1)(vi) of the Immigration Rules.
4. The judge heard evidence from the appellant. He also heard submissions from her representative, Mr Rana and Ms Kugendran, Home Office Presenting Officer. The judge had the bundle before him including a skeleton argument and review by the respondent. The judge turned first to the issue of paragraph 276ADE(1)(vi) finding at paragraph 23 that she would be returning to a country she had lived in for most of her life, would be familiar with the culture and customs in that country, and had shown resourcefulness in the United Kingdom to be able to secure accommodation and financial support, accessing medical care and developing a network of friends within the local community and that whilst she might have some degree of difficulty adjusting back to life in India she would be able to integrate successfully having a suitable understanding of Indian society to be able to rebuild her life in private in her home country albeit that the standard of healthcare would not equivalent.
5. The judge also considered whether not having met the Immigration Rules it would be disproportionate to remove the appellant to India directing himself in line with the decision of the Court of Appeal in **TZ (Pakistan) v Secretary of State for the Home Department [2018] EWCA Civ 1109**. Having directed himself further with regard to the relevant case law at paragraphs 28 and 29 the judge concluded that the appellant would be able to reintegrate into life in India; and, that while it was accepted she had been subjected to domestic violence in the United Kingdom at the hands of her estranged husband, she had not shown that there was a real risk that she would continue to suffer such abuse if returned to India and that it had not been demonstrated that her case was exceptional, the balance sheet proportionality assessment being formed firmly against her.
6. The appellant sought permission to appeal on three grounds. First, that the judge had erred in the approach to paragraph 276ADE(1)(vi). Second, that it erred when it was reasonable to expect the applicant to leave the

United Kingdom in that the judge failed properly to consider the ties she had been built and the impact of her removal to India, and third, had erred at paragraph 31 in that he had inadequately reasoned why there would be shelters available to the appellant in India.

7. Permission to appeal was granted on 2 April 2022 on all grounds.
8. Ms Cunha relied on the Rule 24 letter submitting that while some of the phrasing in the judge's decision was unfortunate it was nonetheless sustainable, the challenge being in effect one of perversity.
9. I turn to the grounds of appeal in turn. Ground 1 is lacking in any detail. It simply says that the judge failed to consider the circumstances as at the date of the application and then sets out general propositions of law as well as citing the relevant paragraph in full. I consider there is no basis on which it can be said that the judge erred materially in his approach to paragraph 276ADE. It is sufficiently clear from how the judge has phrased himself that he bore in mind the relevant test set out in the Court of Appeal's decision in **Kamara v SSHD** [2016] EWCA Civ 813 The judge did look at whether the appellant would be able to live and integrate again into life in India and did not find any significant obstacles to that for which he gave adequate and sustainable reasons. It is of note also that in this case the grounds do not identify what those significant obstacles were.
10. Ground 2. This ground is hopeless. I am at a loss to understand how this ground could have been drafted without any reference to Section 117B of the Nationality, Immigration and Asylum Act 2002. The judge was required to attach little weight to the appellant's private life given that it had been developed here whilst her life was precarious. All the factors drawn attention to in the bullet points in paragraph 9 of the grounds are aspects of her private life in the United Kingdom. There is simply no merit in the submission that there was an error in not considering reasonableness as an aspect of proportionality.
11. It is sufficiently clear that the judge bore that in mind having addressed himself properly as to the questions posed in **Razgar** and the grounds are simply a disagreement with a properly reasoned decision. There is simply in reality no attempt in the grounds to identify how the relatively high threshold of compelling circumstances has been achieved in this case. Even taken at its highest there is simply no sufficient evidence to show that the appellant would be at risk from her estranged partner or his in-laws and there is in fact no proper challenge to those findings and absent such findings it is difficult to see how the appellant at age 60 who has shown resourcefulness in coming to the United Kingdom and establishing herself here would not be able to re-establish herself in India. It is simply not good enough to say that removal of the appellant to India would be highly disruptive. That is implicit in the Article 8 test, it is just that the consequences have to be significant for an appellant to succeed in overcoming the strong public interest in removing those who have no right to be here.

12. There is no merit in ground 3. There is no real evidential basis on which it can be said that the appellant would need to rely on a shelter and it is significant that I consider that the appellant did not in this case claim asylum. It was for her to show that she would need to have to rely on a shelter and would not otherwise be able to integrate. The judge found to the contrary for adequate and sustainable reasons. It is in any event sufficiently clear that the judge did have regard to the relevant material and took it into account. The grounds are simply a disagreement as to weight which is a matter for the judge and the grounds fail to identify that the judge's approach was perverse or irrational.
13. According for these reasons I find that the decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Notice of Decision

1. The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Signed

Date 13 February 2023

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul