IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004156

First-tier Tribunal No: PA/54102/2021
IA/12041/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 7th March 2024

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

SMC
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Mr M Adophy, counsel
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 23 February 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Coutts following a hearing on 30 January 2023.

2. Permission to appeal was granted by First-tier Tribunal Judge Bibi on 25 September 2023.

Anonymity

3. An anonymity direction was made by the Upper Tribunal on 18 October 2023 and is maintained because this is a protection appeal.

Factual Background

4. The appellant is a national of Sierra Leone now aged thirty-nine. She arrived in the United Kingdom as a visitor on 7 November 2019 and applied for asylum on 3 January 2020. The basis of that claim is that the appellant claimed to be at risk of persecution from the head of a female secret society (known as a Sowei) owing to the appellant's campaign against Female Genital Mutilation (FGM). The appellant believed there to be a risk of her being so mutilated or initiated in a secret society.

5. The Secretary of State refused that claim by way of a decision letter dated 9 August 2021. The respondent accepted only the appellant's nationality and tribal membership with all other aspects of her case being rejected. The decision pointed to inconsistencies within the appellant's account as well as with external information along with the fact that only three attempts to initiate her had been made in a period of fourteen years.

The decision of the First-tier Tribunal

6. First-tier Tribunal Judge Coutts found the appellant's claim to lack credibility for similar reasons to those given by the Secretary of State and dismissed the appeal on all grounds.

The grounds of appeal

7. The briefly expressed grounds of appeal were firstly, the judge's reasons were inadequate in relation to the asylum claim. Secondly, there had been a failure to make specific findings in relation to the Humanitarian Protection claim. Thirdly, the judge misdirected himself in relation to Articles 2 and 3 ECHR in supplying no reasoning. Lastly, there was a failure to apply, consider or follow Country Guidance.

8. Permission to appeal was granted on the basis sought, with the judge granting permission making the following remarks.

> There is an arguable error of law that has been identified which merits further consideration. There is a reasonable prospect that a different Tribunal would reach a different decision.

9. The respondent filed a Rule 24 response dated 11 October 2023. In it, the appeal was opposed, with the following comments being made.

> The grounds do not challenge the factual findings made against the A as to the account provided being not credible which should be read as a whole. As identified by the FTTJ at [2] in order to succeed under the Convention the applicant has to establish a well-founded fear. In this instance the FTTJ found that there was no such well-founded fear for want of credibility as per the reasons given, so a finding as to whether the A fell within a PSG or not is totally immaterial. Likewise, the proposed application of country guidance to an account is not material unless there was another factor that placed the appellant at risk outside the PSG claim that was rejected.

Likewise, in the absence of any argument under HP or Articles 2/3 outside of the claim made under the Convention (as per the ASA) it is hard to understand why the FTTJ would be required to make such findings when the reasons are ostensibly clear.

The error of law hearing

10. When this matter came before me, I heard succinct submissions from the representatives. At the end of the hearing, I announced that the decision of the First-tier Tribunal contained no error of law and that it was upheld. I set out my reasons below.

Decision on error of law

11. It is difficult to understand why permission was granted in this case. The grant of permission did not refer to any of the four grounds, all of which are devoid of merit.

12. The first ground could be considered the high point of the appellant's case in that it was said that the judge's findings were inadequate. The grounds of appeal wrongly state that there is 'a total absence of reasoning.' A cursory glance at the decision of the First-tier Tribunal demonstrates that the judge gave an array of reasons for finding that the appellant did not demonstrate that she had a well-founded fear of persecution. Those reasons are many and are set out at [28-40] of the decision and while they are concisely expressed, they are adequate. The grounds raise no issue with any of the judge's discrete findings. Mr Adophy's submissions before me contained no effective challenge to any of those findings.

13. I can dispose of grounds two and three together. Once the judge had concluded that the appellant's asylum claim was lacking in credibility, there was no reason for the judge to provide separate reasons for dismissing the Humanitarian Protection and claim in relation to Articles 2 and 3 ECHR. Indeed, Mr Adophy confirmed that there was no free-standing HP or Article 2/3 claim.

14. Lastly, in relation to the contention that there was a failure to apply, consider or follow Country Guidance, Mr Adophy was unable explain why there would have been any need for the judge to do so, given the appellant's claim was unmeritorious. It is notable that the grounds did not deign to identify which Country Guidance case ought to have been considered.

15. The appeal is dismissed.

Decision

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

The decision of the First-tier Tribunal is upheld.

T Kamara

Judge of the Upper Tribunal
Immigration and Asylum Chamber

29 February 2024

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email