



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

Appeal Numbers: AA/03211/2013
AA/03212/2013
AA/03213/2013
AA/03214/2013

THE IMMIGRATION ACTS

Heard at Field House

**Determination
Promulgated**

On 12 July 2013

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

RS

AS (a minor)

RS (a minor)

SS (a minor)

(ANONYMITY ORDER MADE)

Respondents

Representation:

For the Appellant: Ms E. Martin, Home Office Presenting Officer

For the Respondents: Ms L. Turnbull, Counsel instructed by Ali Sinclair Solicitors

DETERMINATION AND REASONS

1. The appellant in these proceedings is the Secretary of State. However, for convenience I refer to the parties as they were before the First-tier Tribunal.

2. Thus, the first appellant is a citizen of Pakistan, born on 14 May 1975. The remaining appellants are her children and were born on 30 August 2007, 21 September 2001 and 24 October 2002, respectively. The first appellant arrived in the UK on 29 April 2011 and the remaining appellants arrived with her husband in July 2011.
3. She was a dependant on an asylum claim made by her husband in November 2012 but that claim was certified as manifestly unfounded. The first appellant claimed asylum in her own right on 19 February 2013. Her claim was based on domestic violence from her husband both in the UK and in Pakistan. She claimed that she would be at risk from her husband and his family and would be without the support of her family on return.
4. The appeals against the decisions to remove the appellants were allowed by First-tier Tribunal Judge Hindson, on asylum and related human rights grounds, after a hearing on 7 May 2013.
5. The Secretary of State appealed against that decision and permission to appeal was granted in relation to the judge's credibility assessment and in relation to the question of internal relocation.

Submissions

6. Ms Martin relied on the grounds of appeal to the Upper Tribunal. She submitted that the First-tier judge had decided that the appellant was credible before considering the evidence. He had not dealt with the credibility issues that were identified in the refusal letter, to which I was referred. Furthermore, he had not given consideration to the submissions that were made to him in respect of the FIR, during which the point was made that the document provided was only a copy. He was also referred to background evidence in relation to the production of false documents. He had not made reference to the decision in Tanveer Ahmed [2002] UKIAT 00439 which was also part of the submissions made to him on the FIR. The letter from the police that the judge concluded supported the appellant's account of domestic violence was limited in detail.
7. Although the appellant's witness statement referred to the matters raised in the refusal letter, the judge had not made an assessment of those responses by the appellant.
8. There was inadequate consideration of the question of internal relocation. To that effect I was referred to the decision of the Court of Appeal in KA and Others (domestic violence) risk on return (Pakistan) CG UKUT 216 (IAC). _
9. Ms Turnbull drew my attention to the determination at [13] where the judge specifically stated that he had considered all the evidence before

reaching his conclusions. At [23] he stated that in undertaking the credibility assessment he had taken into account all the oral and written evidence, and the documents. He found that the appellant had given a plausible explanation as to how she obtained the FIR. There is reference in the determination to the lengthy cross-examination of the appellant.

10. Consideration had been given to the issue of internal relocation and sufficiency of protection, but also the fact of widespread corruption. There had been adequate consideration of KA. The fact that the appellant would be returning without adequate support meant that her circumstances were different from what they had been in the past.
11. In reply it was submitted by Ms Martin that given the judge's conclusion at [28x] that the appellant's husband would not be able to locate her wherever she was in Pakistan, she would not need to go to a shelter. Since the children were of school age the appellant would be able to work whilst they went to school.

Conclusions

12. I do not consider that there is any merit in the criticism made by Ms Martin in terms of the judge having stated at the outset of the credibility assessment at [23] that he found the appellant to be credible, before then going on to give his reasons with reference to the evidence. Plainly he had to start his written elaboration of reasons somewhere and it was legitimate for him to have given an indication at the outset of his view of the appellant, provided legally satisfactory reasons were then given for that assessment.
13. The real question arises as to whether the reasons that he gave are legally sufficient so as to be sustainable. At [24] Judge Hindson indicated that the appellant had given a consistent account and that it was an account that remained consistent during cross-examination. Whilst consistency in an account is unlikely to be determinative, it is a legitimate matter for a judge to take into account. It is also reasonable to infer that Judge Hindson was satisfied that the appellant had given satisfactory answers to the questions she was asked during the course of cross-examination, given his reference to the lengthy cross-examination.
14. At [25] he found that the appellant's account was consistent with the background information, another matter that was appropriately taken into account. In the same paragraph he referred to the documentary evidence in support of the account, namely a letter from West Yorkshire Police at page 18 and the letter from Pathways Family Support Centre at page 21. The letter from the police, as Ms Martin rightly pointed out, does not give any detail of the domestic violence that the appellant apparently complained about. Nevertheless, it was open to the judge to find that the letter was supportive of her account.

15. So far as the FIR is concerned, Ms Martin read from the typed notes of the Secretary of State's representative who was present at the hearing before the First-tier Tribunal. Those notes however, as I understood it, were notes of points that were to be made, rather than notes of the submissions that were actually made. Ms Martin did also however, refer to annotations on the notes which were said to be indicative that the points written down had been covered in submissions to the judge. I referred the parties to the judge's manuscript record of proceedings. However, on further examination of the record of proceedings, it does appear that submissions were made in terms of Tanveer Ahmed. There is also reference to a submission to the effect that only a copy of the FIR had been provided. I am prepared to accept, although this is not clear from the record of proceedings, that he was referred to background evidence in relation to fraudulent documents in Pakistan. _
16. At [26] the judge stated that the appellant had provided a copy of an FIR "that supports their account of the attack on her brother" (in Pakistan). He went on to state that she had given a plausible explanation as to how she had obtained that document. Whilst he did not refer to background evidence as to the prevalence of fraudulent documents in Pakistan, I do not consider that it could realistically be argued that he was unaware of the fact that documents emanating from Pakistan are sometimes, may be even often, fraudulent. At the very least it is known by immigration judges that in the field of immigration and asylum fraudulent or unreliable documents are often relied on by appellants and it is reasonable to conclude that Judge Hindson would have been aware of that fact. He evidently did not take the FIR at face value because he plainly referred to it in the determination as a distinct issue, making a point of stating that he found plausible the appellant's explanation as to her obtaining it. Similarly, he evidently was aware that only a copy had been provided because he noted that that was the case at [26].
17. The refusal letter does raise credibility issues in terms of apparent inconsistency between the appellant's husband apparently being controlling of the appellant, yet her being able to study, go out to work, come to the UK for further study, and being able to live apart from her husband in the UK whilst he looked after the children. Judge Hindson did not refer to those potential adverse credibility points in his determination.
18. However, I note that in the appellant's witness statement dated 30 April 2013, responding to the issues raised in the refusal letter, she does give an explanation for some of the matters raised in the refusal letter. She refers in another witness statement of the same date to the circumstances of her studying in Manchester. The judge referred at [10] to the appellant's two witness statements, and in that paragraph and elsewhere emphasises that all oral and documentary evidence has been taken into account. It is not likely that the judge was unaware of what

was in the appellant's witness statements. Furthermore, at [16] there is at least reference to the appellant having said in oral evidence that she worked intermittently when her husband allowed her to do so.

19. It was acknowledged on behalf of the Secretary of State before me that it is not necessary for a judge to refer to every aspect of the evidence, and to each point made for one side or the other. On the other hand, it is to be expected that a judge will engage with the main points in issue.
20. In this case, I do think that the judge's determination would have benefited from a clearer or more explicit demonstration of his having evaluated the arguments advanced on behalf of both sides, both in the refusal letter and in submissions, and to have given more explicit reasons for the findings that he made. However, having considered the determination as a whole in the context of the evidence that was before the First-tier judge, I have concluded that the judge's reasons for accepting the credibility of the appellant's account are legally sustainable. As I have indicated, the reasons could be improved upon, but they are legally adequate.
21. So far as the judge's consideration of the issue of internal relocation is concerned, I am satisfied that he gave adequate consideration to that issue with reference to the decision in KA. He took into account the availability of shelters for women, and the fact that the appellant is "relatively well-educated" and has experience of working as a teacher. However, he also found that she would be living without family support in an area which she would not be familiar with, having the care of three children. He found that there was a risk that the children, all of whom are over five years of age, would be taken away from her. In fact, according to [241] of KA, that risk only applies to male children and only one of the appellant's children, R, is male, aged 11 years. Thus, although the judge overstated the position in terms of a risk of separation from her *children*, the point remains a valid one in respect of R.
22. Ms Martin suggested that because, as the judge had noted, the children are of school age, they could attend school whilst the appellant went to work. However, I was not referred to any evidence which would indicate how easy it would be for the appellant to enrol her children in school in a new area, or indeed what her prospects for employment would be. In any event, as the judge noted, the accommodation available to her in a shelter would be temporary only, as explained in KA.
23. It was also suggested that because the judge had found that the appellant's husband would *not* be able to find her wherever she went in Pakistan, she would not have need of a shelter. However, that suggestion fails to take into account the problems that are evident in the background material and in the decision in KA as to the difficulties

for a lone woman in Pakistan without family support, still less a lone woman with three children.

24. I am satisfied that, brief though it was, the First-tier judge did conduct a fact-sensitive approach to the issue of internal relocation, as he was required to do. It is conceivable that another judge may have come to a different view on that issue. However, I am satisfied that his conclusion that the appellant could not reasonably avail herself of the option of internal relocation was one that was open to him.
25. In conclusion therefore, I am not satisfied that there is any error of law in the decision of the First-tier Tribunal, either in relation to the credibility assessment, or in terms of his consideration of the issue of internal relocation

Decision

26. 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 to allow the appeal on asylum and human rights grounds therefore stands.

Anonymity

I make an anonymity order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and consequently, this determination identifies the appellants by initials only. No report of these proceedings may identify any of the appellants.

Upper Tribunal Judge Kopieczek

15/07/13