



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/01517/2014

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Manchester
On 1 October 2014**

**Determination Sent
On 6 October 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE PLIMMER

Between

**ZG
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Brown (Counsel)

For the Respondent: Mr McVitty (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Afghanistan. She appeals with permission against a decision of First-tier Tribunal Judge Heynes dated 24 April 2014 in which he dismissed her appeal on inter alia, asylum grounds.
2. In his grounds of appeal and orally Mr Brown relied upon

three grounds to support his submission that Judge Heynes' decision is erroneous in law. I deal with those submissions, the respondent's response and my own conclusions in relation to each in turn.

(1) Port interview

3. I entirely accept that an asylum seeker is not expected when she first arrives to fully set out the basis of her claim for asylum. However, asylum seekers are expected to tell the truth and discrepancies can legitimately be deployed in the assessment of credibility, provided that decision-makers take into account all relevant matters including that the asylum seeker may be tired after a long journey and the record will be a summary only. I have taken into account and accept the summary of the various authorities helpfully set out in the grounds of appeal including in particular **KD (Sri Lanka) v SSHD** [2007] EWCA Civ 1384.
4. I accept that Judge Heynes was particularly concerned about the inconsistency between the appellant's answers at the initial port interview. The Judge made clear allowances that the appellant may have been tired and emotionally exhausted [27] but nevertheless regarded the inconsistency to be a glaring one [29-30]. The Judge took into account the appellant's explanations including the alleged difficulties with the interpreter [23-24] but was entitled to find the explanation incredible for the reasons he has outlined [28].
5. Mr Brown submitted that the Judge should have taken into account that later that same day at the screening interview the appellant was able to provide a more accurate basis for the claim for asylum. However the Judge was well aware of the screening interview and noted that the appellant failed to make any mention of being physically assaulted in the initial port interview or at the screening interview [74-75]. The Judge was entitled to be concerned about the failure to mention such an important aspect of her later account for the reasons that he has provided.
6. Judge Heynes comprehensively disbelieved the majority of the appellant's account and gave detailed and numerous reasons for this. This is not limited to the inconsistency between the port and screening interviews and what was later claimed but also included a number of other matters [31-83]. The Judge's credibility findings

might be described as harsh but they do not disclose an error of law.

(2) Expert report / credibility findings

7. The grounds of appeal submit that the Judge erred in law in considering the expert report after he had reached his findings on credibility, rather than consider all the evidence in the round.
8. The Judge has given a clear reason for not expressly referring to the detail within the expert evidence when making his credibility findings. He did not regard it necessary to turn to that detail because he regarded the events described by the appellant as plausible [73] or as he put it "*capable of happening in Afghanistan*" [88]. Mr Brown accepted that the two expert reports from Mr Giustozzi were only relevant in so far as they described the appellant's account as plausible and described the risk on return for the appellant if her account was accepted. Having accepted the appellant's account as inherently plausible, the Judge was entitled to approach his credibility findings in the manner that he did.

(3) Risk on return

9. Mr Brown correctly submitted that the Judge accepted that the appellant played a minor role in the organisations she worked in [69] and those would be perceived as Western and liberal in Afghanistan and that she was employed as claimed [89]. Mr Brown submitted that the Judge erred in law in failing to address risk on return in light of these limited positive credibility findings.
10. Judge Heynes neatly summarised his findings including his acceptance that the appellant was employed as claimed and his rejection that she or her husband had received threats and she was beaten [89] before concluding that "*there is no basis for concluding that the appellant and her daughters would be at risk*". I asked Mr Brown to take me to the expert or background evidence available to the Judge to support the proposition that a woman with the appellant's employment history but who had not been threatened or ill-treated up to her departure from Afghanistan in 2010, would be at risk if returned in 2014. Mr Brown relied upon the passages in the expert report set out at [14] of his grounds of appeal. These address the generalised risks for those viewed as collaborationists and those perceived as westernised and

liberal, and the general situation in Kabul. There was in reality very little before the Judge or before me to suggest to the lower standard of proof that the appellant would be at risk in 2014 when she had not worked in Afghanistan since 2010 and had worked without (on the Judge's findings) any threats or material incident between 2008 and 2010. The paucity of the evidence of risk to a woman with that history is relevant when considering whether the Judge properly engaged with risk on return. Although the Judge dealt with the issue very briefly I am satisfied he has provided sufficient reasoning that the appellant would not be at risk on return.

11. Even if I am wrong on this, I am satisfied that any error on the part of the Judge in giving reasons why the appellant would not be at risk in light of his limited positive findings regarding her past employment, cannot be said to be a material error of law. On the background evidence available no Judge would have found the appellant to be at real risk in 2014 by reason of her past employment in Afghanistan when she worked without (on the Judge's findings) any threats or material incident between 2008 and 2010.

Decision

12. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
13. I do not set aside the decision.
14. The First-tier Tribunal did not make an anonymity order but I do so because this determination refers to sensitive matters relevant to the appellant's asylum claim.

Signed:

Ms M. Plimmer
Deputy Judge of the Upper Tribunal

Date:
1 October 2014