



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/08160/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 13th February 2014

Determination Promulgated
On 2nd April 2014

Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

MRS PB
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr O’Ryan
For the Respondent: Mrs Brewer, Home Office Presenting Officer

DECISION NOTICE

1. This notice of decision is made with the consent of both parties, Mr O’Ryan for Mrs PB and Mrs Brewer for the Secretary of State for the Home Department.

2. Both parties are agreed I have no jurisdiction to hear what purports to be “an appeal” by Mrs PB against the decision of the Secretary of State to refuse to grant her, a citizen of Iran, asylum as a refugee under the UN Convention.
3. The short history of this matter was outlined by Mr O’Ryan who represented Mrs PB before me on 13th February 2014.
4. Mrs PB entered the United Kingdom on 19th August 2010 together with her husband and 5 year old daughter. She entered as a dependent of her husband who had a Tier 2 visa. He was an employee of Iranian Airways, a government owned company. Their second child was born in the United Kingdom on 30th August 2012. Following the birth of the second child relations between the spouses deteriorated.
5. Prior to this Mrs PB’s leave was renewed (along with that of her husband) and she was granted limited leave to remain extant until 6th May 2015. That leave remains in force.
6. Mrs PB’s husband left the United Kingdom and returned to Iran, but just prior to leaving, she applied for asylum.
7. On 14th August 2013 Mrs PB was issued with a decision entitled “Rejection of asylum claim”; but no removal directions were given. The notice which was dated 14th August 2013 purported to give her a right of appeal under Section 83(2) of the Nationality Immigration and Asylum Act 2002. Clearly no removal directions were issued because Mrs PB had extant leave until May 2015 and that leave has never been curtailed.
8. As Mr O’Ryan pointed out (and Mrs Brewer acknowledged) a right of appeal is governed by Section 83 and Section 82(ii)(d) of the 2002 Act. Mrs PB has extant leave which has not been curtailed. Therefore at the date of decision purporting to refuse her asylum she was not in a position of having no leave to enter or remain. She had extant leave until 2015. Therefore the notice dated 14th August 2013 purporting to give Mrs PB a right of appeal under Section 83 of the 2002 Act is incorrect. I have no jurisdiction in this matter.
9. No Jurisdiction.

Direction regarding anonymity – rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005

The appellant is granted anonymity throughout these proceedings, unless and until the Tribunal directs otherwise. No report of these proceedings shall directly or indirectly identify her or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of Court proceedings.

Signature
Judge of the Upper Tribunal

Dated