



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: AA/00608/2015
AA/05655/2015
AA/07113/2015
AA/07115/2015**

THE IMMIGRATION ACTS

**Heard at Bennett House, Stoke
On 9 September 2015**

**Determination Promulgated
On 11 September 2015**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**RSW
JSW
SK
AK**

ANONYMITY ORDER MADE

Respondents

Representation:

For the Appellant: Ms Johnstone (Senior Home Office Presenting Officer)
For the Respondent: Ms Johnrose (Compass Immigration Law)

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an anonymity order. Unless the Tribunal or a Court directs otherwise, no

report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

1. The appellant ('the SSHD') appeals against a decision of First-tier Tribunal Judge Nicol dated 15 July 2015 in which he allowed the respondents' appeals on asylum grounds. The respondents are all Sikhs and citizens of Afghanistan.
2. I have maintained the anonymity order granted by the First-tier Tribunal as this decision refers to the respondents' asylum claims and the circumstances of minor children.
3. At the hearing before me Ms Johnstone relied upon the grounds of appeal. She asked me to find that the Judge had failed to engage with the SSHD's reasons why the credibility of the asylum claim should not be accepted. She took me to the relevant passages within the refusal letters for the first and second respondents to support her submission that the Judge had failed to address relevant matters and the decision was therefore insufficiently reasoned. Ms Johnstone reminded me that the decision should be read as a whole and when it is the Judge has carefully considered all the evidence and submissions and provided sufficient reasons for his findings.
4. After hearing submissions I indicated that I would be dismissing the SSHD's appeal. I now provide my reasons for doing so by reference to each ground of appeal.

Ground 1 - credibility

5. The SSHD has criticised the Judge's positive credibility findings as being unreasoned and inaccurate. When the decision is read as a whole it is clear that the Judge properly directed himself on the proper approach to credibility [12] and took into account all the evidence relied upon by both parties, as well as the submissions advanced on their behalf [13, 14, 34 and 35]. The Judge outlined the detailed background facts underpinning the respondents' claims [15-26]. It is clear that the first and second respondents were questioned in some detail [26-33]. Having carefully considered the evidence and submissions the Judge was entitled to accept the credibility of the incidents described by the respondents [36-45].
6. There was no need for the Judge to refer to every point relied upon by the SSHD provided that he has adequately explained why he regarded the respondents to be credible in their claims. The Judge clearly did not regard the first respondent's claim regarding the timing of violence against the second respondent to be inconsistent. The Judge accepted the first respondent's evidence that violence only

took place after a report was made to the police. This is consistent with the clarification offered by the first appellant during the course of his interview. The Judge was also entitled to find that the respondents provided consistent accounts. The Judge at this stage was referring to 'global credibility'. When this is considered alongside the finding that the first respondent's oral evidence 'largely confirmed' that of the second appellant, it is clear that the Judge accepted that in relation to the central aspects of the account he was satisfied that there was sufficient consistency.

Ground 2 - Failure to apply country guidance

7. It is an error of law for a Judge to fail to follow applicable country guidance. Whilst the Judge did not expressly refer to SL (Afghanistan) (returning Sikhs and Hindus) CG [2005] UKIAT 00137 and DSG (Afghan Sikhs departure from CG) Afghanistan [2013] UKUT 00148(IAC), I am satisfied that he was aware of these authorities and took them into account. Both authorities were included in the respondents' bundle. Relevant extracts are also set out in the SSHD's decision letter. The Judge expressly stated that he had "*careful regard to the material placed before [him] concerning the situation of Sikhs in Afghanistan*". There is no reason to believe that he was excluding SL from this consideration.
8. Moreover, the Judge's findings are not in anyway inconsistent with SL. SL makes it clear that all Sikhs are not at risk of persecution but the individual circumstances of each person will require consideration. The Judge has not concluded that the respondents are at risk simply because they are Sikhs. He has accepted their claims to have been targeted in two separate incidents and concluded that in all the circumstances there is a risk of repetition of the threat to serious harm.
9. I accept that the Judge might have expressed himself a little more clearly when setting out the nature and extent of the prospective risk. However, when the decision is read as a whole, the Judge has adequately explained that there is a real risk of the fourth respondent being targeted again and that her family members will be unable to protect her and may themselves come to adverse attention in seeking to protect her and this places all the respondents at risk (throughout Afghanistan).

Ground 3 - discrimination and harassment

10. The SSHD has criticised the Judge's findings at [38 and 39] as confusing but I am satisfied that the Judge has adequately explained why he considers there is a real risk of persecution for these respondents. The Judge has properly directed himself to the fact that the respondents have suffered generalised discrimination and

harassment, in addition to the two specific incidents accepted. He has properly, and in line with SL reminded himself that this general discrimination and harassment falls short of persecution [39].

Ground 4 - Article 8

11. Ms Johnstone accepted that any errors in relation to Article 8 would only be material if an error of law in relation to asylum is made out. As I have found that the Judge has made no material error of law in allowing the appeal on asylum grounds, there is no need for me to address the ground based upon the Article 8 assessment.

Decision

12. The decision of the First-tier Tribunal did not involve the making of a material error of law and is not set aside.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
10 September 2015