



IAC-FH-CK-V1

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

Appeal Number: AA/06008/2014

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 23 June 2015

On 24 July 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE HANBURY

Between

MS ARZU YENTUR

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bonavero, Counsel instructed by Trott & Gentry LLP
Solicitors

For the Respondent: Mr Duffy, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. This is an appeal against the decision of the First-tier Tribunal Judge Feeney (“the Immigration Judge”). Following a hearing on 9 January 2015 at Taylor House, in which the Immigration Judge heard evidence from the appellant and her brother and submissions by both representatives, she dismissed the appellant’s appeal against the respondent’s decision to refuse the appellant asylum and human rights protection in the UK. In her

determination, dated 14 February 2015, the Immigration Judge found that the appellant's account was incredible and she rejected the evidence given by the appellant.

The proceedings before the Upper Tribunal

2. The decision of the First-tier Tribunal was subject to an application for permission to appeal on 11 March 2015. The grounds are succinctly drafted but they perhaps go somewhat further than those that could realistically be argued. Indeed when they were considered by Judge of the First-tier Tribunal Cruthers on 23 March 2015, it is fair to describe his consideration of the grounds as less than a ringing endorsement of the grounds. He made it clear that in granting permission he did not see it as an indication that the appeal would ultimately be successful. Apart from anything else he considered that the judge's reasoning in relation to a number of key aspects of the case may well stand up to closer scrutiny and he referred to a number of paragraph numbers. However, he did grant permission to appeal because he considered that it was at least worth hearing argument on the question of whether the Immigration Judge should have said that there was a corroborating statement from the appellant's brother which helped to assist the Tribunal to reach a conclusion on whether in fact the appellant was an Alevi Kurd.
3. I heard helpful argument by both representatives at the hearing that was set to determine whether or not there was a material error of law. Mr Bonavero, who represented the appellant, and Mr Duffy, who represented the Home Office, both set out their grounds in the case of Mr Bonavero and the Secretary of State's response succinctly focusing on the key points rather than dealing with all the exhaustive grounds that have not been effectively the subject of a grant of permission. Mr Bonavero, whose submissions will be summarised more fully below, explained that his client claimed to be an Alevi Kurd but her brother had attended the First-tier Tribunal and given evidence. He had not been asked any questions by the respondent's representative and he took that to be an acceptance that the witness was giving at least potentially credible evidence and given the lack of challenge the First-tier Tribunal ought to have accepted that evidence at face value.
4. Secondly he said that his client had made a specific reference to torture in July 2012 when she was detained in Yarl's Wood detention centre and that reference given the difficulties in victims of torture recalling the precise circumstances, particularly where there is a possible sexual component, ought to at least have been considered by the Tribunal.
5. Mr Duffy on the other hand said that even if the appellant was an Alevi Kurd it did not mean that the Tribunal had to accept her account. There were comprehensive findings including the findings in relation to relocation which must be allowed to stand and overall the judge although she may be criticised for aspects of her determination had reached a conclusion that she was entitled to come to in all the circumstances.

Conclusions

6. Having carefully considered these arguments, I have concluded that the decision of the First-tier Tribunal was one that it was entitled to come to on the evidence it heard. It is right to say that the brother's evidence was recorded in the notes of the hearing and the Immigration Judge asked him some questions. It might have been better if the Immigration Judge had dealt more fully with his evidence rather than mentioning it in passing. However, I am satisfied that the Immigration Judge made comprehensive adverse credibility findings from which it is very difficult to see how the appellant's appeal could succeed.
7. The appellant had not given a consistent account including a consistent account of having been tortured at all. There was no proper medico-legal report confirming that she suffered from PTSD. It appears (see paragraphs 27 and 28 of the determination) that there were reports from the appellant's GP and psychiatrist before the First-tier Tribunal. However, the Immigration Judge was, I find, justified in rejecting that evidence for the reasons she gave in those paragraphs.
8. The Immigration Judge made comprehensive findings in relation to the appellant's knowledge of Kurdish culture, her knowledge of the background from which she is said to have come. The appellant's lack of knowledge placed her outside the class of potential claimants on the basis of her Kurdish ethnicity.
9. Additionally, I am satisfied, for the reasons Mr Duffy gave, that the Immigration Judge made a finding that was open to her in relation to the appellant's ability to successfully relocate if she desired to do so on her return to Turkey.
10. Clearly, the appellant suffers from stress and has had mental problems. I have seen her distressed condition at the hearing in the Upper Tribunal. I have considerable sympathy for her but the burden rests on her to show that the decision of the FTT contained a material error of law. Having reviewed that decision I am satisfied that the decision is one that the First-tier Tribunal was entitled to come to on the evidence before it and that there was no material error of law in that decision. I will therefore dismiss the appeal to the Upper Tribunal

Notice of Decision

The appeal by the appellant against the decision of the First tier Tribunal is dismissed. The decision of the Secretary of State to refuse her application for asylum and humanitarian protection, as well as refusing to recognise her human rights' claim, stands.

No anonymity direction was made and here is no challenge to that decision.

Signed

Date

Deputy Upper Tribunal Judge Hanbury

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge Hanbury