



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: AA/08550/2013  
AA/08551/2013  
AA/08552/2013  
AA/08553/2013  
AA/08555/2013

**THE IMMIGRATION ACTS**

Heard at Bennett House, Stoke  
On 27<sup>th</sup> November 2014

Determination Promulgated  
On 5<sup>th</sup> January 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE GARRATT

Between

SF First Appellant

RF Second Appellant

AF Third Appellant

LF Fourth Appellant

AMF Fifth Appellant

(ANONYMITY DIRECTION MADE)

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellants: Ms E Rutherford of Counsel instructed by Braitch RB Solicitors  
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

## **DECISION AND DIRECTIONS**

1. Following a renewed application to the Upper Tribunal, Upper Tribunal Judge Peter Lane gave permission on 26<sup>th</sup> February 2014 to the appellants to appeal against the determination of Judge of the First-tier Tribunal V A Cox in which she dismissed the appeals on all grounds against the decisions of the respondent to refuse asylum, humanitarian and human rights protection to the appellants who are all citizens of Pakistan.
2. In granting permission Judge Lane thought it arguable that the First-tier Tribunal Judge had made factual errors regarding the background of the main appellant which may have had a material bearing on her credibility findings.
3. At the hearing in the Upper Tribunal before me I heard submissions from both representatives about the claimed error on a point of law.
4. Ms Rutherford confirmed that she relied upon the grounds of application to the Upper Tribunal. These submit that the fundamental criticism of the determination is that the judge erroneously reached her conclusions on the basis that the appellant was a highly educated woman who had obtained a degree in the United Kingdom. Several references to this conclusion were made by the judge when reaching her credibility findings, most notably in paragraph 68(a) where erroneous reference was made to the appellant's educated status in conjunction with consideration of Section 8 of the Asylum and Immigration (Treatment of Claimants Act) 2004. The erroneous conclusion was also referred to in paragraphs 68(c) and 74.
5. The grounds further contend that the judge failed to consider the conclusions of the country expert who gave a plausible explanation for the first named appellant's husband concealing his Ahmadi faith from her (paragraph 30 of the report). The grounds also allege that paragraph 73 of the determination is fundamentally flawed in its conclusion that the appellant would not be an unsupported woman in Pakistan because she would have the support offered by her current partner. No evidence was presented during the proceedings to show that the present partner would be in a position to support the appellant financially or, for that matter, that he had done so in the United Kingdom.
6. The grounds also criticise the determination for a restrictive approach to Article 8 issues and a flawed analysis of the risk on return for the first named appellant and the children without an assessment of the best interests of those children and consideration of whether or not the first named appellant's relationship with a married man would impose an additional risk for her and her children in the country of origin.
7. At the hearing Ms Rutherford expressed the view that the expert report had been largely ignored by the judge. For example, conclusions about domestic violence suffered in Pakistan (paragraph 68(e)) made no reference to the comments of the expert. Further, the appellant had never worked in Pakistan so it was wrong to conclude that she could support herself.

8. Mr McVeety referred to paragraph 39 of the expert report in which the appellant was referred to as educated. He also argued that the function of the expert was not to comment on credibility. The judge had given cogent reasons for her conclusions about the appellant's husband. Whilst he conceded that the Section 8 conclusions contained the error about the appellant's education he suggested that this was not relevant.
9. In conclusion Ms Rutherford drew my attention to paragraph 31 of the expert report. She argued that the expert had dealt objectively with the husband's Ahmadi faith and this was a matter which the judge should have shown she had considered before reaching her own credibility findings.

### **Conclusions**

10. Paragraph 68(a) of the determination shows that the judge reached her conclusion that the appellant is a highly educated woman because she had obtained a degree in the United Kingdom. That was, however, wrong because the appellant had not been educated to degree standard either here or in Pakistan. Such a conclusion might not have been material if the judge had made no further reference to the appellant's intelligence when reaching conclusions about her credibility. However, that is not the case. The judge reached the conclusion that the appellant was a highly educated and able woman who would be able to re-establish herself and her children in Pakistan (paragraph 74). In paragraph 75 the judge goes on to conclude that the appellant's UK degree gave her, I infer, an employment advantage in Pakistan which would also ease her difficulties. It is clear that the judge's erroneous view of the appellant's educational status figured so highly in her conclusions that she also made it a basis for her Section 8 finding. I can only conclude that the error is material because of its close relationship to the credibility findings and assessment of risk on return. The error means that the determination cannot stand.
11. I also accept that the judge's reference to the expert report is inadequate, particularly in relation to her husband's claimed secrecy about his Ahmadi faith. Even if the judge was not bound to follow any statements by the expert about the appellant's credibility, the evidence put forward should have been referred to and, if necessary, dismissed with reasons before adverse credibility findings were reached. The judge's findings about the likelihood of support in Pakistan by the appellant's partner in the United Kingdom are reached without any reference to evidence which might show that the partner could support her in that way. These matters also amount to errors on points of law which compound the effect of the fundamental error to which I have referred.
12. The determination shows the errors on points of law which I have identified. These errors are such that the appeal must be heard afresh. In reaching that conclusion I bear in mind the provisions of paragraph 7.2 of the Practice Statement by the Senior President of Tribunals of 25<sup>th</sup> September 2012 particularly as the judicial fact-finding exercise by the First-tier tribunal will involve all issues.

**DIRECTIONS**

1. The matter is remitted to the First-tier Tribunal sitting at Stoke for hearing afresh on all issues.
2. An Urdu interpreter will be required.
3. The time estimate for the hearing is three hours.
4. The appeal must not be heard by Judge of the First-tier Tribunal V A Cox.
5. As this appeal involves the interests of minor children I make the following direction:

**Unless and until the court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.**

Signed

Date

Deputy Upper Tribunal Judge Garratt