Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: AA/05026/2015**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 11th January 2016	**On 16th February 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

NA
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Professor S Juss instructed by Farani Javid Taylor Solicitors
For the Respondent: Ms S Sreeraman, Home Office Presenting Officer

DECISION AND REASONS

The Appellant

1. The appellant was granted permission to appeal against a decision of the First-tier Tribunal, whereby her appeal against the respondent's decision to refuse to vary her leave to enter or remain, and to remove her from the United Kingdom, was dismissed. This refusal was made on 9th March 2015 following a refusal to grant her asylum, humanitarian protection and protection under the European Convention. The appellant is a Pakistan national born on 30th November 1986.

2. Briefly the appellant's history is that she entered the UK on 23rd April 2013 on a visit visa valid until 27th September 2014 when at the time she was engaged to her first

cousin to whom she had been betrothed. The main purpose of her visit was to shop for her wedding and she claims that on the flight from Pakistan to the UK she met someone by the name of A M who tendered to her whilst she felt unwell. They exchanged numbers and kept in touch. Despite coming from a very protected background, a relationship was said to have developed between the appellant and Mr M and this culminated at the end of the week of their first meeting, with her falling pregnant. The appellant found out she was pregnant on 10th June 2013 and subsequently gave birth to her son on 18th January 2014 and no one was identified on the birth certificate as being the father.

3. The appellant had been staying at her cousin's house but her cousin and his family went on holiday at the end of June leaving her on her own but the cousin's wife noticed the appellant was pregnant when she returned from holiday. She called her husband who was still abroad at the time who spread the news about her pregnancy at home in Pakistan.

4. At the appeal hearing evidence was given on behalf of the appellant by Mr Q I, a friend of the appellant's, who submitted that during a visit to Pakistan he had been approached by the appellant's brother who asked him about the appellant's whereabouts and suggested that he should find the appellant and have her sent back to Pakistan.

5. The appellant also maintained that she was sent a threatening e-mail by her brother on 7th October 2013.

6. The application for permission to appeal maintains that the judge on the first ground failed to give clear and cogent reasons for finding that the threatening e-mail sent to the appellant was not a genuine one. Although Professor Juss attempted to reinstate this ground, I find that Judge Cox, who granted permission to appeal, was not persuaded that the judge gave inadequate reasons for an adverse finding regarding the e-mail and restricted his grant refusing to give permission on this ground. I was not persuaded to depart from that decision.

7. Nonetheless ground 2 was given permission on the basis that it was arguable in the light of the positive findings made at paragraph 46 and 55 that the judge's assessment of risk on return and the viability of internal relocation were inadequate and flawed.

8. At the hearing Professor Juss had stated that the background country information was not considered adequately by the judge and the assessment of risk was not looked at. He specifically referred to the country information guidance on Pakistan and identified that the judge had essentially noted the appellant would be returning as a lone single woman who had transgressed social mores. The judge had been referred to 2.4 of the Country of Information Guidance on Pakistan (CIG) July 2014, but had failed to take this into account and had failed to in fact follow the guidance of **AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)** which stated at the first bullet point in the head note that it would always be necessary to consider the particular circumstances of the individual case. Professor Juss submitted that the fact that there was no history of domestic violence was irrelevant because hitherto

there had been no cause to threaten the appellant with domestic violence and it was only subsequent to her falling pregnant outside wedlock that the difficulties had arisen. Professor Juss also had identified that there were inconsistencies within the decision, for example the judge had accepted at paragraph 46 that her account was found credible and that she became pregnant and gave birth to her son who like her was a citizen of Pakistan but, at paragraph 47 the judge then stated

> *"However taking into account all of the factors set out above relating to the evidence I do not accept that she has established to the low standard of proof required much of her account and I do not find that she has been a truthful witness as to parts of it".*

9. Professor Juss submitted that it was next to impossible for a single woman to find rental accommodation, particularly as she was caring for a 1 year old child. This appellant was not professional, had a small child and had no family structure to whom she could return. There was no specific finding that Mr Q would support her financially although this appeared to be the implication of paragraph 48.

10. The judge had not given adequate reasons or findings in relation to internal relocation as far as her security and renting were concerned. The judge had merely stated at [57] that the appellant had not been the subject of any specific allegations and she would not be facing any past vendetta, which was irrelevant. It was the present circumstances which were relevant. That she had shown herself able to adapt to a country other than her own should not have been a factor because the United Kingdom was not the same milieu as in Pakistan. For the judge to find at paragraph 58 that she would be able to live safely and have a reasonable normal life by local standards and thus her return would not be unduly harsh was not taking into account all the circumstances as the judge was required to do.

11. The e-mail was very relevant and the judge had not identified that the Home Office had indeed accepted that this e-mail was sent. I reject the fact that the e-mail should be considered to be an error on the part of the judge, as the judge gave adequate reasons for dismissing this evidence, not least that the appellant gave a different e-mail address than that she gave in her application.

12. Ms Sreeraman stated that the judge had referred to **AW** and to **KA and Others (domestic violence risk on return) Pakistan CJ [2010] UKUT 216 (IAC)**. I note, however, that **AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)** is in relation to sufficiency of protection for both men and women and in this particular instance the issue is the gender of the appellant.

13. Ms Sreeraman submitted that having set out in clear terms the judge did turn his mind to sufficiency of protection and noted paragraph 270 of **KA**. In general risk is likely to be confined to tribal areas, such as the North-West Frontier Province.

14. I identify however, that was not made specific was the availability of the shelters or centres but also the situation women would face after they leave such centres.

15. The judge found that the appellant could on the facts relocate and the reference at 2.5 of the CIG was not sufficient evidence to depart from **KA**.

16. Although Professor Juss submitted that at no stage the judge had referred to the fact of the appellant being a single woman with a child, I find that is not the case, but it is clear that the judge had not made specific reference to the CIG and I agree that the judge does not factor into the decision material evidence which was that it was virtually impossible for single women to live alone. In addition there was no finding with regards to any shelter that she might seek. I also accept that **KA** was a more nuanced determination than that mere extraction at paragraph 270 would indicate. In addition there was no clear finding as to what support she might find once she returned to Pakistan, bearing in mind it was suggested that she may not be able to return to her home area. Nor was there a clear finding as to her working ability, indeed the evidence suggested that she in fact had worked for her family. There was no clear finding that Mr Q would afford financial support to the appellant.

17. Finally it was Professor Juss who stated that there was a contradiction in the credibility findings, such that the matter should be remitted to the First-tier Tribunal.

18. I do find that the submissions of Professor Juss have some force regarding the credibility findings, in particular that there was contradiction in the findings between paragraph 46 and 47 as to credibility. There certainly is tension in the judge's determination whereby he found her account credible to the low standard of proof that she came to the UK and *then* became pregnant and yet at paragraph 25 the judge stated "it was difficult to see how she could have been absent so often from the house for her to develop such a relationship in which she described the intimacy taking place 'finally' in the space of part only of a week from Tuesday to Friday".

19. In view of the inconsistency with the findings I therefore find there is an error of law and the matter should be returned to the First-tier Tribunal for redetermination.

20. The Judge erred materially for the reasons identified. I set aside the decision pursuant to Section 12(2)(a) of the Tribunals Courts and Enforcement Act 2007 (TCE 2007). Bearing in mind the nature and extent of the findings to be made the matter should be remitted to the First-tier Tribunal under section 12(2) (b) (i) of the TCE 2007 and further to 7.2 (b) of the Presidential Practice Statement.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her 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.

Signed Date 10th February 2016

Deputy Upper Tribunal Judge Rimington