Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00374/2015

THE IMMIGRATION ACTS

Heard at Glasgow	**Determination issued**
on 2 February 2015	**on 11 February 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

F G

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representatives:
For the Appellant: Mr M Templeton, of Quinn, Martin & Langan, Solicitors
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals against a decision by First-tier Tribunal Judge Morrison, promulgated on 2 December 2015, dismissing her appeal against refusal of recognition as a refugee.

2. The 4 grounds of appeal may be summarised as follows:

   1 The judge founded at paragraph 28 on a perceived inconsistency between the appellant's account at interview of how the authorities became aware that she had given medical treatment to a

demonstrator and her account in her witness statement, but there was no discrepancy.

2 The judge found at paragraph 29 that if of interest to the authorities the appellant would have been detained when departing through the airport. This was speculative.

3 The judge found at paragraph 33 that if aware of her involvement with demonstrators, the authorities would have taken steps to contact her promptly, and not months after she left the country. This was also speculative.

4 In finding that the authorities had not shown any interest in the appellant, the judge wrongly found background evidence on human rights violations to be irrelevant.

3. The judge sets out the respective passages of evidence at paragraph 28, but fails to demonstrate any change in the appellant's account. The respondent accepted that even on reference to the underlying materials, no significant discrepancy could be detected.

4. On ground 2, I think the judge may have gone rather far by saying in the penultimate sentence that the appellant "*would* have been detained". However, that must be read in context. The following sentence is to the effect that the failure to show interest in her when she left "*suggests* that at that stage she was of no interest."

5. Mr Templeton criticised the finding as entirely speculative, being based only on lapse of time, when there was no evidence to show how long it might take for the authorities to develop and pursue their interest, and the appellant was a relatively minor figure. He suggested also that the reference to the small size of Bahrain and its geographic situation was irrelevant.

6. I do not agree with those submissions. The judge's reasoning is sensible. It was obviously pertinent to bear in mind that Bahrain is a relatively small and well organised country, not a massive and chaotic one. This was not a point which might by itself determine the appeal, but it is one the judge was entitled to make.

7. Exactly similar considerations apply to the third ground. The judge said that her family had significant connections to the Shia opposition, and although her own involvement was at a relatively low level, the judge was entitled to find it unlikely that the interest of the authorities would have developed only so long after they came to know of her involvement and after she had left the country.

8. Mr Templeton acknowledged that ground 4 is a relatively minor point. I do not think there is much in it. The paragraph as a whole is plainly designed to put on record that the judge was aware of the background evidence, yet found that the appellant did not fall into the category of persons against whom abuses were likely.

9. Mr Templeton's final submission was that the first 3 grounds were all good, and sufficient not only for the determination to be set aside but to show that there were no remaining reasons by which an adverse credibility conclusion could be sustained, and that the determination should therefore be reversed.

10. Mrs O'Brien's final submission was that although ground 1 was good, there was nothing in the remaining grounds, and the adverse findings which survived scrutiny were sufficient for the determination to stand.

11. I have indicated above my views on the respective strength of the grounds, in which light I think that the final submissions on both sides went too far.

12. Whether a decision survives excision of an error is always a matter of fact and degree. The structure of the judge's decision is that at paragraphs 25, 26 and 27 he makes findings favourable to the appellant on points advanced by the respondent. His first significant point against the appellant is at paragraph 28, which has been accepted to be mistaken. His next point is at paragraph 29. Paragraph 30 settles another minor point in her favour. At paragraph 31 the judge notes the appellant's account of her husband's family being well known to the authorities, which reinforces his view that they would have taken steps to arrest her or prevent her from leaving. This overlaps with both paragraphs 29 and 32. Those are all the main points in the decision. Paragraph 28 is lengthy and detailed and seems to have played quite a significant part in the judge's thinking. I do not think it can safely be said that but for the error, he would inevitably have come to the same view, and his decision should therefore stand.

13. Grounds 2 and 3 do not amount to more than disagreement. I am equally unable therefore to accept that there are no reasons which survive scrutiny, so that the decision falls to be reversed.

14. The determination of the First-tier Tribunal is **set aside**. None of its findings are to stand. Under section 12(2)(b)(1) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the First-tier Tribunal**. The members of the First-tier Tribunal chosen to reconsider the case are not to include Judge Morrison.

15. No anonymity direction has been requested or made.

Upper Tribunal Judge Macleman

6 February 2016