



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/29782/2014**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 24th October 2017**

**Decision & Reasons
Promulgated
On 15th November 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**NABILA KOUSER
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Sowerby, Counsel instructed by Nasim & Co Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of Pakistan born on 1st January 1983. She last arrived in the UK on 23rd December 2012 when she was granted leave to enter until 26th April 2013 as a visitor. On 24th April 2013 the Appellant applied for leave to remain on compassionate grounds. That application was refused for the reasons given in a Notice of Decision dated 10th July 2014. The Appellant appealed, and eventually her appeal was heard by First-tier Tribunal Judge Ross (the Judge) sitting at Taylor House on 7th

December 2016. He decided to dismiss the appeal on Article 8 ECHR grounds for the reasons given in his Decision dated 22nd December 2016. The Appellant sought leave to appeal that decision and on 7th August 2017 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Appellant applied for leave to remain on the basis that she was the sole carer for her aunt who suffers from several medical conditions. The Appellant was the sole person responsible for providing her aunt with physical and emotional care and their relationship was akin to that of mother and daughter. The Judge dismissed the appeal because he found that there were no particularly compelling or compassionate circumstances in the case and although there was a strong bond between the Appellant and her aunt, it did not go beyond normal emotional ties. In reaching this conclusion, the Judge accepted that the Appellant provided personal care for her aunt, for example in helping her to get out of bed, and also emotional support when her aunt awoke in the night distressed. The Judge also considered a psychological report by Susan Pagella but attached little weight to it as it was not objective. The Judge decided that he was unable to consider the appeal outside of the Immigration Rules, and in the alternative that there was not a sufficient dependency between the Appellant and her aunt to establish family life. The Judge also found in the alternative that the decision of the Respondent was proportionate.
4. At the hearing before me, Mr Sowerby argued that the Judge had erred in law in coming to this conclusion. There was substantial evidence before the Judge of the high degree of dependency between the Appellant and her aunt and the Judge therefore should have found that there was family life between them. This case could be distinguished on the facts from those in the decision in **Kugathas v SSHD [2003] EWCA Civ 31**. The psychological report should have been attached greater weight and clearly showed the degree of dependency between the Appellant and her aunt. The Judge had given insufficient reasons for his decision to the contrary.
5. In response, Mr Avery referred to the Rule 24 response and submitted that there was no such error of law. The grounds of application relied upon by the Appellant amounted to no more than a disagreement with the decision of the Judge. The Judge had given sufficient reasons for his rejection of the report of Susan Pagella. The Judge had accepted that there were strong bonds between the Appellant and the Sponsor, but on the evidence had been entitled to find that there was no evidence of emotional ties which went beyond the normal between an aunt and her niece.
6. I find no material error of law in the decision of the Judge which I therefore do not set aside. I agree with the argument of Mr Avery that the submissions made on behalf of the Appellant amount to no more than a disagreement with the decision of the Judge. He decided that the

Appellant could not rely upon the provisions of Article 8 ECHR because although there was a strong bond between the Appellant and her aunt, they did not amount to family life for the purposes of Article 8. In reaching that conclusion the Judge correctly applied the test given in **Kugathas**. That case stated the general principles to be applied when deciding whether family life existed between adult relatives and was not dependent upon its own particular facts. The Judge dealt with all the relevant evidence before him and gave adequate reasons for his decision. In particular, he gave a cogent reason for declining to attach any weight to the report of Susan Pagella.

7. For these reasons I find no material error in the decision of the Judge which I do not set aside.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside that decision.

The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and indeed find no reason to do so.

Signed

Date 13th November 2017

Deputy Upper Tribunal Judge Renton