



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

Appeal Number: PA/05843/2016

THE IMMIGRATION ACTS

**Heard at Manchester
On 13 July 2017**

**Decision & Reasons Promulgated
On 9 August 2017**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**LATIFA FAGHIRAZADEH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Thomas, Compass Immigration Law Ltd

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Latifa Faghirazadeh, was born on 1 January 1986 and is a female citizen of Afghanistan. She arrived in the United Kingdom in October 2015 and claimed asylum. By a decision dated 25 May 2016, the respondent refused to grant her asylum and made a decision to remove her to Afghanistan. The appellant appealed against that decision to the First-tier Tribunal (Judge Chambers) which, in a determination

promulgated on 13 October 2016, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are two grounds of appeal. These concern the alleged failure of the judge to make sustainable findings of fact upon a proper consideration of material evidence and a failure to give adequate reasoning. The issue in the appeal to the Upper Tribunal is summarised in the grant of appeal by Judge Canavan as follows:

“It is at least arguable that the judge failed to assess the plausibility of [the appellant’s] account in the context of the background evidence relating to the treatment of women in Afghanistan. It is also arguable that, in rejecting the claim solely on the grounds of credibility, the judge failed to give anxious scrutiny to other material evidence that was relevant to potential risk on return. The appellant’s evidence in interview suggested that she did not have any male family members in Afghanistan her brother having travelled with her to the United Kingdom. The judge’s factual statements in paragraphs 2 and 38 of the decision were arguably erroneous and went to a material issue relating to risk on return for a lone woman without male relatives. In the alternative it was arguably not open to the judge to find it was possible for a return because “it also seems likely her brother will in the fullness of time be returned” when he still has an outstanding asylum application in the UK [38].”

3. The appellant’s husband had been granted refugee status in the United Kingdom in 2001 and became a British citizen in 2007. The appellant had married her husband in 2004. The appellant had claimed that her husband’s parents had not approved of the marriage. The relationship between the appellant and her husband had not been a good one, according to the appellant and had deteriorated into violence. The appellant claimed that her husband was a violent murderer of “hundreds of people.”
4. Judge Chambers did not believe any part of the appellant’s account. He gave thorough and detailed reasons for rejecting her credibility as a witness of truth. Ground 2 of the grounds of appeal submit that the judge gave inadequate reasons for rejecting the appellant’s credibility. That is plainly not the case. The grounds advance vague assertions that the judge had failed to understand the evidence and that his failure of understanding made the findings unsafe. Miss Thomas, who appeared for the appellant before the Upper Tribunal, did not seek to pursue that challenge to the judge’s findings but, instead, concentrated on the remaining ground which concerns the alleged failure of the judge to understand the appellant’s evidence as to the male members of her family who remain living in Afghanistan. In his assessment of the humanitarian protection claim [38], the judge recorded that, “The appellant said in her interview that her sisters and brothers and mother continue to live in Char Qala Kabul. She has three aunts in the area. She has other, more distant, relatives. Her children are living with her in-laws.” That statement is incorrect. The appellant had claimed throughout that her two brothers had been living in the United Kingdom. Her mother and sister remain

living in the family home in Afghanistan. As Judge Canavan observed, the judge's mistake might arguably go to the question of risk on return. However, for the reasons which I set out below, I do not find that the appeal should be allowed.

5. It is important to consider the factual matrix upon which Judge Chambers, having made findings in respect of the appellant's credibility, assessed risk on return. The judge wholly disbelieved the appellant's account of having experienced difficulties with her husband and her husband's family. In the light of the judge's findings of fact, therefore, she is, therefore, no more than a female Afghan citizen with no criminal or security profile and no apparent family difficulties which might threaten her welfare returning to the country of her nationality. She has no reason to believe that the Afghan state authorities or any member of her family would seek to harm her either at the point of her return to Afghanistan or whilst living in her home area of the country. I agree with Mr McVeety that the appellant has adduced no evidence whatever to show that the Afghan authorities would take any interest in her as a lone woman returning to the country. Moreover, the appellant has family members living in Afghanistan who would be in a position to collect her from the airport and take her away to live with them. As Mr McVeety submitted, the appellant would be returning to the same personal and economic situation in Afghanistan which she had left when she came to the United Kingdom; she is no more at risk now than she was when she left the Afghanistan. Even if the appellant is right and she does face a risk, then, on the basis of the factual matrix which Judge Chambers identified, then it would follow that all lone women returning to join family members in Afghanistan would be at risk; that is not a conclusion which is consistent with the background material or current country guidance. Indeed, the appellant failed before the First-tier Tribunal to establish that was the case. Miss Thomas did not pursue such an argument before the Upper Tribunal.
6. It does appear that the judge believed that the appellant's brother was living in Afghanistan when that was not the case. However, I cannot see that such a finding was material to his assessment of risk. The judge was entitled to find that the appellant, a woman returning to Afghanistan unaccompanied by a male family member, would not be at risk. Different considerations might apply if she were returning as a lone female to the country where she had no family members whatever residing but that is not the case on the facts as found by the judge.
7. Judge Canavan also identified a difficulty in the judge's reasoning regarding the asylum claim of the appellant's brother. I agree that it was inappropriate for the judge to pre-judge the appellant's brother's asylum claim ("*her brother will in the fullness of time be returned*") but I do not find that this error formed the basis of the judge's assessment of risk. The judge was aware that the appellant would return or would be likely to return to Afghanistan before her brother's claim and any possible subsequent appeal had been determined. To that extent, the possibility that the brother would eventually join her in Afghanistan was simply an

additional reason for finding that the appellant would not be at risk. Given that the judge was entitled to find that the appellant would not be at risk if she were to return alone for the reasons which I have identified above, then the possible return of the brother at some unspecified later date added little.

8. For the reasons I have given, the appeal is dismissed.

Notice of Decision

9. This appeal is dismissed.

No anonymity direction is made.

Signed

Date 6 August 2017

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 6 August 2017

Upper Tribunal Judge Clive Lane