



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

Appeal Number: PA/14335/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 21 November 2017**

**Decision and Reasons
Promulgated
On 28 December 2017**

Before

UPPER TRIBUNAL JUDGE CONWAY

Between

**S.G.
(Anonymity order made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Mughal

For the Respondent: Ms Aboni

DECISION AND REASONS

1. The appellant is a citizen of Pakistan born in 1950. She appeals against a decision by the respondent made on 22 December 2016 to refuse her claim for asylum.
2. The basis of her claim is that she is at risk of persecution as she is a lone woman who fears mistreatment by her son and his wife.

3. The respondent accepted that the claim was capable of engaging the Refugee Convention on the ground that she was a member of a particular social group, as a lone woman in Pakistan.
4. However, the respondent noting various discrepancies in her accounts did not believe her claim to have been, following the death of her husband, mistreated by her son and his wife. Further, it was considered that she has the support of another family member, a daughter in Pakistan and is financially independent.
5. She appealed.

First tier hearing

6. Following a hearing at Hatton Cross on 27 March 2017 Judge of the First-Tier Eldridge dismissed the appeal.
7. His conclusions are at paragraph 38ff. He considered it unnecessary to make any findings because even taken at its highest the appeal could not succeed under the Refugee Convention [38].
8. He noted the appellant's evidence that she had had a comfortable existence whilst her husband was alive. When he died in 2009 he left the family home in equal shares to his widow, a son and daughter who live in Pakistan and two sons who live in the UK. However, although she was supposed to live in part of the property and receive rental income from the other part, she was not allowed to live in the property and was not receiving her due rental income. It was unclear how she was receiving her pension.
9. The judge considered that *"even if her account is true in its entirety, any problems the appellant has are solvable by her sons in this country taking some responsibility for her plight."* They are both working and there was no indication that they could not support her in Pakistan as they are in the UK [43]. If she chose not to live in that accommodation she is entitled to the rental income and could live elsewhere, even if culturally it might be difficult or unacceptable to live with her daughter in Pakistan.
10. Having noted country guidance the judge found that the appellant would not be in a position to work and may have few if any qualifications. However, *"she has a pension and the right to rental income and can reasonably expect to receive additional financial support from her family within the UK if she needs it."* She would not need to move to the city as she lived in Islamabad [48]. He concludes (at [50]):

"... the appellant has no well-founded fear of persecution as a woman in her circumstances. Sensible action by her adult children in this country and her daughter in Pakistan should resolve her

situation satisfactorily. Even if they will not take that action, with the means available to her, she should be able to relocate within Islamabad. The claim she brings suggests that it is only within the family home that she has any fear of ill treatment. If her sons here remain unwilling to help sort out family problems and tensions, then she has no reason to fear such ill treatment living outside the home. She has the means to support herself."

11. She sought permission to appeal which was granted on 5 September 2017.

Error of law hearing

12. At the error of law hearing before me Ms Mughal submitted that the judge erred in failing to make findings on credibility and whether she fell within a particular social group and required protection. Then having made these findings he should have considered the question of relocation if necessary. His approach of stating that even if her account is true in its entirety any problems she has are solvable by her sons in the UK taking some responsibility for her situation, was inadequate. Further, the conclusion that even if they did not help her she has the means to support herself was not an accurate reflection of the evidence; she has no access to the rental income or to the pension, both of which are controlled by the son in Pakistan. As such the conclusion that she could relocate was flawed.
13. Ms Aboni simply adopted the rule 24 response. Whilst it might have been more appropriate for the judge to have made credibility findings his approach of taking the account at its highest was open to him and his conclusion that her financial circumstances were such that internal relocation was reasonable was adequate.

Consideration

14. In considering this matter the judge's position is that even if wholly true the claim cannot succeed under the Refugee Convention. Proceeding on the basis that even if she is a member of a particular social group who had been the victim of domestic violence at the hands of family and there was no sufficiency of protection she could live elsewhere in Islamabad. Even if not financially supported in Pakistan by her UK based family she has the means to do so herself.
15. The difficulty in my view is that in his brief conclusions the analysis of internal relocation is inadequate.
16. In ***SSHD v AH (Sudan) and Others [2007] UKHL49*** the House of Lords pointed out that the test to determine whether internal relocation was available was the test set out in ***Januzi v SSHD [2006] UKHL5***, namely that the decision maker should decide whether, taking account of all relevant circumstances pertaining to the claimant and her country, it would be reasonable to expect the claimant to relocate or whether it

would be unduly harsh to expect her to do so. The test was one of great generality. In applying the test enquiry had to be directed to the situation of the particular claimant; very little was excluded from consideration other than the standard of rights protection which a claimant would enjoy in the country where refuge was sought.

17. The court said that all the circumstances of the case had to be assessed holistically, with specific reference to personal circumstances including past persecution or fear thereof, psychological or health conditions, family and social situations, and survival capacities, in the context of the conditions in the place of relocation, including basic human rights, security and socio economic conditions and access to health care facilities; all with a view to determining the impact on the claimant of settling in the proposed place of relocation and whether she could live a relatively normal life without undue hardship.
18. Further guidance was given in **SM and MH (lone women - ostracism) Pakistan CG [2016] UKUT 00067.**
19. The difficulty with the judge's assessment of internal relocation is that it concentrated almost entirely on the financial circumstances of the appellant emphasising repeatedly (at [43, 48 and 50] that her UK based family could support her. This is despite there being no finding that they would be able and willing to do so. A default finding that were the family here not willing to help she has the means to support herself was not what the evidence indicated. Her position was that she was not getting the rental income she was entitled to. The judge's findings on her pension are unclear. Ms Mughal (who appeared at the First tier hearing) indicated that the evidence had been that it, too, was controlled by her son and she does not receive it.
20. Apart from the comments on the finances the judge's analysis in respect of internal relocation is sparse. He notes that she is elderly, that she is not going to be in a position to get work and may have few if any qualifications, factors, it might be thought, in her favour in the assessment exercise. He gives no consideration in this context of whether she has been a victim of persistent and serious mistreatment and her fear of such, nor on her health problems (which the judge referred to elsewhere (at [53-55]) and access to health care, or to issues of security, or to social and cultural difficulties that she may face as an elderly lone woman in Pakistan.
21. In my judgement the findings on internal relocation are inadequately reasoned such as to amount to a material error of law requiring the decision to be set aside and the case to be heard afresh.
22. Whilst judicial economy is commendable it may be appropriate for the next Tribunal to take a more structured approach and to deal with all the major issues before it, including making findings in relation to credibility.

Notice of Decision

23. The making of the decision of the First-Tier Tribunal involved the making of an error on a point of law. The decision is set aside. None of its findings are to stand.
24. The appeal is remitted to the First-Tier Tribunal to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals Courts and Enforcement Act 2007 and Practice Statement 7.2 before any Judge apart from Judge Eldridge.

Anonymity

Unless or until a court or tribunal directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant or any member of her family. This direction applies to the appellant and to the respondent. Failure to comply with this direction may lead to contempt of court proceedings.

Signed

Date 22 December 2017

Upper Tribunal Judge Conway