



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

Appeal Number: PA/05888/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 6 March 2018**

**Decision & Reasons  
Promulgated  
On 27 March 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**YS  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms. E. Lanlehin, Counsel

For the Respondent: Ms H. Aboni, Home Office Presenting Officer

**Anonymity:**

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.

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan born on [ ] 1956. She arrived in the UK on a visit visa in July 2009 and remained unlawfully after her leave expired. On 23 November 2016, whilst detained and awaiting removal, she applied for asylum. The application was refused on 24 May 2017. The appellant appealed to the First-tier Tribunal where her appeal was heard by Judge Beg. In a decision promulgated on 31 July 2017, Judge Beg dismissed the appeal. The appellant is now appealing against that decision.

### Background

2. The basis of the appellant's asylum claim is that she fears her estranged husband, from whom she has previously suffered domestic violence, will kill her if she is returned to Pakistan. In summary, she claims that she came to the UK in 2009 in order to look after her father, who was unwell, and that she remained in the UK despite her husband demanding she return to Pakistan. She claims that in 2013, in a telephone conversation, her husband accused her of having an affair. She also claims that after her father's death in February 2014 her husband said he would kill her if she returned to Pakistan.
3. The appellant also claims that she would not be able to obtain any help from the police in Pakistan because of corruption and the influence of her husband's family. She also claims that although she has three brothers in Pakistan (who reside in the same district as her husband) they would not support her because of the threats from her husband and their own economic situation. She claims she could not move to another part of Pakistan because she has always lived with family and could not imagine living alone.
4. The respondent accepted that the appellant had demonstrated a genuine subjective fear of return to Pakistan because of threats from her husband but rejected her asylum claim on the basis that the authorities in Pakistan would provide adequate protection (sufficiency of protection) and that it would be reasonable for her to live in one of the largest cities in Pakistan (internal relocation). The appellant's human rights (Article 8 ECHR) claim was also rejected. The respondent's position was that the appellant could not satisfy any of the Immigration Rules and there were not exceptional circumstances that would warrant allowing the appeal outside the rules.

### Decision of the First-tier Tribunal

5. The judge dismissed the appellant's claim for several reasons.
6. Firstly, the judge did not accept that the appellant would face a risk from her husband if she returned to Pakistan and lived in the same district she had lived in previously. The judge rejected the appellant's claim to have been accused of an extramarital relationship (describing this as fabricated) and found that even if her husband had been violent to her in the past she

would not be returning to him or his home and would have male protectors, in the form of her brothers.

7. Before reaching this conclusion, the judge assessed the appellant's credibility and found it undermined by what she described as "a significant discrepancy in the appellant's evidence". The discrepancy in question is described at paragraph 23 of the decision, where the judge stated:
 

*"I find that there is a significant discrepancy in the appellant's evidence. At question 24 of the substantive asylum interview the appellant stated that it was in September 2013 when her husband accused her of having a relationship with another man. Yet at paragraph 6 of her witness statement she claims that the accusation of adultery was made in January 2014 after her father died. In her oral evidence she said that her husband accused her of being in a relationship with someone else after that she spoke to him on the telephone when her father died."*
8. The judge found that the appellant's credibility was further damaged by the oral evidence she gave about her three brothers. The judge observed that in response to repeated questioning in cross examination about why she could not live with her brothers she spoke about their limited financial means and small homes but made no mention of their geographical proximity to her husband.
9. The judge also found that the appellant's credibility was undermined by the delay in claiming asylum.
10. Secondly, the judge found that the appellant would be afforded sufficient protection from the state in the event that she faced violence from her husband. Citing KA and Others (domestic violence risk on return) Pakistan CG [2010] UKUT 216, the judge stated that "whilst there is corruption within the police in Pakistan nonetheless there is a criminal justice system in force and offenders are punished through the courts. I find that there is no credible evidence that the authorities are unable or unwilling to offer effective protection."
11. Thirdly, the judge, relying on SM (lone women - ostracism) Pakistan CG [2016] UKUT 67, found that it would not be unreasonable or unduly harsh for the appellant to locate to one of the larger cities in Pakistan given that she would have the support of three brothers living in Pakistan and financial support from family in the UK.

### Grounds of Appeal and Submissions

12. The appellant lodged a lengthy grounds of appeal (written herself) which criticised both the decision of the First-tier Tribunal and the position taken by the respondent.
13. One of the points raised by the appellant was that she was not treated fairly at the hearing. In the grounds, she stated:

*"I was repeatedly stopped when replying because interpreter had to interpret and also the honourable judge had to write that down. I was told that once the honourable judge will finish writing then I can finish whatever I wanted to say. But sometimes when the honourable judge finished writing then instead of giving me the chance to finish my reply they used to put another question on to me and I could not answer my previous reply in a better and comprehensive way and missed important points. Sometimes I used to forget that I have the interpreter and answers directly to the honourable judge. It happened a couple of times. The honourable judge asked me to reply through interpreter. The honourable judge was right in saying that but it was just happening because I used to forget that I have the interpreter. When it happened two three times which was beyond my control than the honourable judge warned me that if it happened again and I can even stop continuing the hearing which put me under a lot of pressure. My brother [ ] my witness finished his night shift and came straight to the court for witness without having a sleep was very tired at the time of hearing and had to face the same sort of problems during the interview. My niece was also the witness and she spoke directly to the judge without interpreter and the honourable judge believed her more and accepted her witness credible".*

14. At the error of law hearing, Ms Lanlehin explained that the appellant was pursuing three grounds of appeal.
15. The first ground was that the hearing was procedurally unfair. She contended there were two aspects to the unfairness. Firstly, appellant faced interruption from the judge and difficulties with the interpreter which impeded her from giving evidence. Secondly, the judge assessed the appellant's credibility even though this had been accepted by the respondent.
16. The second ground of appeal was that the judge misunderstood the appellant's evidence. Ms Lanlehin argued that the appellant's evidence about her husband accusing her of adultery and her brothers' ability to support her was consistent and did not contain any discrepancies.
17. The third ground of appeal advanced by Ms Lanlehin was that, in considering the reasonableness of internal relocation, the judge did not apply SM correctly. She claimed that because the appellant would not have family or financial support in the area to which she would need to relocate (as her brother's live in the same district as her husband), in accordance with SM it would be unduly harsh to expect her to relocate internally.
18. Ms Aboni argued in response that there is nothing in the decision to indicate any procedural unfairness. She observed that the appellant was represented and asserted that had there been a concern about the proceedings the representative could have raised it at the time. She maintained that the grounds are no more than a disagreement but that even if the judge had erred in respect of credibility, any such error would

not be material given the sustainable findings on sufficiency of protection and internal relocation.

### Analysis

19. The appellant was represented at the First-tier Tribunal hearing. There is no indication in the decision (or elsewhere) that her representative raised any concerns at the time about the conduct of the hearing or the interpreter. Nor has the representative given a statement concerning the alleged misconduct, as would normally be expected if there was cause for concern. See HA (Conduct of hearing: evidence required) Somalia [2009] UKAIT 00018.
20. In order for an appeal to be set aside on the basis of procedural unfairness there needs to be evidence of unfairness. As there is no such evidence, this ground of appeal cannot succeed. In any event, the experience described by the appellant, as set out at paragraph 13 above, does not on its face appear unfair. It may well be that it was frustrating for the appellant and her brother to give evidence through an interpreter and that because of the interpreter frequent interruptions occurred. However, it does not follow from this that the judge failed to listen appropriately to the appellant or that she did not have a full opportunity to give evidence.
21. I also do not accept the argument that it was unfair or improper for the First-tier Tribunal to assess the appellant's credibility. In the respondent's letter to the appellant of 24 May 2017 ("the refusal letter") it is explicitly accepted that the appellant had been threatened by her husband and that she genuinely feared returning to Pakistan because of him. However, the refusal letter does not state whether or not it is accepted that the appellant had been accused of adultery. Nor does the refusal letter state that the appellant's claim about the absence of support she would receive from her brothers in Pakistan was accepted. It was for the judge to assess, based on the evidence before her, whether the appellant's account of being accused of adultery and of not having family support in Pakistan was credible and to make findings of fact on these issues. Accordingly, the procedural unfairness challenge to the decision cannot succeed.
22. I also do not accept that the judge misunderstood the appellant's evidence. A core part of the appellant's account concerned when her husband first accused her of adultery. In her witness statement she referred to the accusation of adultery being made after her father died but in the asylum interview, and orally before the First-tier Tribunal, she stated that the accusations were made sometime earlier, in 2013. Ms Lanlehin argued that there is no real discrepancy within the evidence, because the accounts are consistent. However, the timeline in the witness statement does not, on its face, match the other evidence. It was for the judge, who had the benefit of hearing the appellant give oral evidence, to determine whether this amounted to a discrepancy; and if so, the weight it should be given. It was therefore not an error of law for the judge to characterise the

differences in the evidence as a discrepancy and to give it weight in the assessment of credibility.

23. I now turn to the third ground of appeal, which concerns the judge's approach to internal relocation.
24. SM sets out factors relevant to whether internal relocation would be unduly harsh. These include a woman's age, the extent of family support she will receive (in particular whether there is a male guardian in the place of relocation) and the extent to which the woman is likely to be ostracised.
25. For the reasons explained above, I am satisfied that the judge's factual findings were open to her. This includes the findings that:
  - (a) The appellant, although she had been threatened by, and feared, her husband, had not been accused of having an affair. The implication of this is that she is not likely to face ostracism.
  - (b) The appellant was in contact with, and would receive support from her three brothers. Although the appellant's brothers live in the same district as her husband (and therefore do not live in the city to which she would relocate) this does not mean they would not be able to provide her with assistance. It is clear from the decision (notably at paragraph 32) that the judge appreciated that the brothers live in the same district as the husband but still found that they would provide the appellant with support.
  - (c) The appellant is financially supported by her brother in the UK and that there was no reason this would not continue if she is returned to Pakistan.
26. I am satisfied that in light of the judge's findings of fact, as explained above, it was not inconsistent with SM to conclude that it would not be unreasonable or unduly harsh for the appellant to relocate within Pakistan.
27. In conclusion, I am satisfied that the judge has reached a decision that was open to her based on the evidence and that the decision does not contain a material error of law.

### **Decision**

28. The appeal is dismissed.
29. The decision of the First-tier Tribunal does not contain a material error of law and stands.

Signed

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line.

Deputy Upper Tribunal Judge Sheridan

Dated: 25 March 2018