



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07208/2017

THE IMMIGRATION ACTS

Heard at Field House
On 17th July 2018

Decision & Reasons Promulgated
On 26th July 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MISS N A
(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr T Melvin (Senior Home Office Presenting Officer)

For the Respondent: Mr M Sowerby (instructed by Pioneer Solicitors)

DECISION AND REASONS

1. This case first came before me on 15th January 2018 for an initial hearing when I found as follows:-
 - (i) This is an appeal to the Upper Tribunal by the Secretary of State in relation to a Decision and Reasons of Judge Samimi in the First-tier Tribunal promulgated on 8th September 2017. It relates to an asylum application by a Pakistani woman, born on 10th March 1987. She had come to the UK as a student in 2010 and had leave granted until her Sponsor's licence was

revoked in 2013. She then made unsuccessful applications on family and private life grounds and then in January 2017 claimed asylum. She did so on the basis of a fear of forced marriage supported by the fact that both of her sisters had been forced into arranged marriages which ended badly in terms of them being abused and subsequently divorced.

- (ii) The judge accepted on the basis of the evidence that that was a risk for this Appellant and having found that she would be at risk then considered whether she could relocate elsewhere in Pakistan. She found she could not because she was a lone woman without family support because she had become estranged from her family since 2013. The judge referred herself to SM & MH (lone women; ostracism) Pakistan [2016] UKUT 67 (IAC) and also referred to the Country and Information Reports of 2013 and 2014. She allowed the appeal on that basis under the Refugee Convention.
- (iii) The Secretary of State's challenge was twofold. Firstly, it was suggested that the judge had found the Appellant would be at risk of an abusive marriage because her sisters were, for which there was of course no evidence. That is absolutely true but that is not the basis upon which the judge made the findings. What the judge found was that she would be at risk of a forced marriage.
- (iv) However, the second ground in relation to the judge's treatment of internal relocation has merit. The judge in considering internal relocation set out the entire head note of SM & MH and highlighted subparagraph (5) which states:

"Where a single woman with or without children is ostracised by family members and other sources of possible social support because she is in an irregular situation, internal relocation would be more difficult and whether it is unduly harsh would be a question of fact in each case."

However what the judge has paid little attention to is the preceding subparagraph (4) which states that:

"It will not normally be unduly harsh for educated, better off, or older women to seek internal relocation to a city. It helps if a woman has qualifications enabling her to get well-paid employment and pay for accommodation and childcare if required."

Of course childcare is irrelevant here, there are no children.

- (v) It is the case that this Appellant is highly educated and she is 30 years of age. The judge does mention that she is highly educated but then does not make any specific findings about that and indeed places reliance on two pieces of evidence from country information reports both of which predate the country guidance case. I therefore conclude that the judge's

consideration of internal relocation is inadequately reasoned and indeed does not deal properly with the country guidance case.

- (vi) The remaining findings in terms of forced marriage are sustained and therefore I allow the appeal of the Secretary of State to the limited extent that the findings in relation to internal relocation are flawed by a material error of law and need to be re-decided. That being the case and the remainder of the Decision being upheld it should be reheard in the Upper Tribunal solely on the issue of internal relocation. What is going to be significant in the findings to be made by the Upper Tribunal is the level of her qualifications and whether those qualifications would enable her to find work and whether it would be well-paid employment. That will require evidence.

Notice of Decision

The appeal is allowed to the limited extent that the question of internal relocation is to be re-decided at a resumed hearing in the Upper Tribunal.

2. At the start of the resumed hearing the appellant indicated that she did not require an interpreter. However, one had been booked and it was agreed to be prudent to have the interpreter in court should his assistance become necessary. In the event the appellant did use him from time to time.
3. At the commencement of the hearing the appellant showed signs of distress although as the hearing progressed and she gave evidence she recovered well.
4. The appellant adopted her original statement of 25 August 2017 and also a supplementary statement dated 27 June 2018. As this was unsigned she signed it in court and it was re-dated 17 July 2018.
5. In her supplementary statement she deals specifically with the question of internal relocation. She said that she had lived most of her life in Sialkot Punjab before she came to the UK.
6. She says that as a single woman it is not possible for her to relocate to any other area in Pakistan. She says that her family are already after her and if they know that she is in Pakistan they will easily find her as she has nowhere to go. She then refers to the situation generally for women in Pakistan and says that she believes she will not be safe.
7. She says that it will be extremely difficult for her to rent a house as she would not be able to afford the high rent. She says that she is not highly educated as she has only passed her intermediates with low grades and will not have the opportunity to get a good job.
8. She also says that in order to live elsewhere in Pakistan she would have to pretend she was either orphaned or has no family which would itself lead to persecution and

ostracism and she would be living in fear that her real circumstances would be discovered.

9. She says that it is highly likely that without family or material support and living alone she will face appalling and arguably, inhumane prospects and is likely to fall into destitution. Additionally she says she will be subject to persecution and ostracism by the community.
10. The appellant attached a document to that statement said to be from the Board of Intermediate and Secondary Education in Gujranwala Pakistan which indicates she obtained a pass at grade D in all subjects on 15th August 2007. The institution was said to be Nisa Girls College, Paris Road , Sialkot.
11. In her oral evidence the appellant said that that document is her only qualification in Pakistan and although it was a degree course of four years she only studied for two years because her family were torturing and abusing her and trying to force her into marriage so that she could not focus on her studies. She said that qualification would not enable her to get a good job and she would only be able to get a job that would pay something in the region of £22 per month.
12. The appellant said that in the UK she is supported by her friends who she lives with and in Pakistan there is no one to protect her. She said that she has only about £300 in savings and that if she has to return to Pakistan she would have no one to support her.
13. In cross-examination she was asked about the friends that she lives with. She said that they are not relatives but were very good friends of her father's and they were the same people that she visited in Rawalpindi after she left her home and before she travelled to the UK. It was they who helped her arrange flights to the UK. They are all now in the UK save for their elderly mother who remains. She said that they sometimes give her money if she asks and that she helps in the house with cleaning, cooking, laundry and looking after the children.
14. She was asked about the fact that at a previous hearing she said that she was working. She said she was working then at a cafe but is no longer working.
15. It was put to the appellant that when she made the human rights application in 2014 she put in the application that she had an academic qualification equivalent to a degree. She was unable to offer any explanation for having said that in the application form and repeated that she had only completed two years of a four-year degree course.
16. She was asked what happened in the three years between 2007 when she said she stopped studying and 2010 when she came to the UK to study. She said that she stayed at home and her family were arranging for her marriage and she was tortured. She said that she did find one job but was only being paid £25 per month and that she worked only for a few months in 2008 and 2009.
17. It was put to the appellant that at interview she had said that she was working and studying at the same time after 2007. She then said that she had done some small

courses after 2007 such as computer courses but she told her family she was working. She said that she had done a basic computer course and an English speaking course.

18. It was put to the appellant that she completed several courses in the UK at Level 5 and 6. She agreed that she had and said they were in business management. She had also completed a graduate diploma in information systems. She said that although she had completed those courses she had not achieved good grades.
19. She was asked, while she was studying the small courses in English, how she was able to avoid being forced to marry and she was unable to provide a satisfactory response.
20. She was asked why the family she was staying with and who have been supporting her were not present in court or indeed filed a statement. Her response was "she's working in an office and already helped me a lot". With regard to providing a supporting statement she said they would have done that but she did not ask.
21. She says that she speaks to her sister in Pakistan but not regularly.
22. She insisted that her qualifications were inadequate to get a good job in Pakistan saying that you needed A or A+ grades and hers were only D.
23. She was asked how her family would find her if she returned to Pakistan. In reply to this she said that if she went to her uncle and auntie they would tell her family. She was asked why, if those were the people who had helped her to come to the UK, they would tell her family. She simply repeated that they were not her real uncle and auntie just friends of her father.
24. She said about this family that they had come to the UK before she did and helped her from the UK to arrange her Visa and flights and provided all the money. She has always lived with them and been financially supported by them whilst in the UK.
25. In his submissions Mr Melvin pointed out that for the appellant to have obtained a student visa she would have to show a high level of qualification in Pakistan and also in the subsequent applications she made and which were successful. She was also required to show that she had a substantial amount of money; thousands of pounds. He pointed out that the evidence that she had given differed from the evidence she had given previously because during her asylum interview when she referred to it being her grandfather's money. Nevertheless, he submitted that whatever the truth about who had sponsored her as a student, they had expended several thousand pounds both for maintenance and fees and whoever that person was there is no evidence to suggest and no reason why they could not support her on her return.
26. He argued that she herself had said in an application form that her Pakistani qualifications were equivalent to a UK degree and she has completed a postgraduate course in the UK. He did not accept her claim to have only studied for a few small courses between 2007 and 2010; studying secretly while her family were preparing her forced marriage. He argued that she was clearly in further education in Pakistan to obtain qualifications and during that time her family did not pursue the marriage. He

argued that I was not being told the truth about her educational qualifications or the pressure she was under at the time.

27. He referred to a document that he had produced regarding the qualification the appellant obtained in Pakistan which suggested that it would lead to a well-paid employment.
28. He referred to the complete absence of evidence from the family in the UK who supported her both in Pakistan and in the UK, which suggested the full facts of this matter had not been given. He argued that there is nothing to prevent her relocating elsewhere in Pakistan and obtaining well-paid employment with additional support from those in the UK and she could live a reasonable life.
29. Mr Melvin pointed out that she had done two courses in the UK at Level 5 and 6. Level 5 is the equivalent of the second year of a degree course and level 6 equivalent to a Bachelor's degree. That is information in the public domain.
30. Mr Sowerby, on the appellant's behalf, relied upon his skeleton argument. He pointed out that the only contact who remained in Pakistan, not connected to her abusers, was an elderly friend of her father's. He argued she was not highly qualified and thus would be unable to obtain employment and as such would be at risk and unable to internally relocate. She was therefore entitled to succeed. He pointed out she is an extremely vulnerable woman and he relied on various pieces of case law.
31. So far as case law is concerned the relevant country guidance case is SM and MH that I referred to in my earlier decision. That case confirmed that the existing country guidance of SN and HM (divorced women-risk on return) Pakistan CG [2004] UKIAT 00283 and KA and others (domestic violence-risk on return) Pakistan CG [2010] UKUT 216 (IAC) remains valid.
32. The relevant paragraphs of the head note of SM and MH are paragraphs 4 and 5 to the effect that it will not normally be unduly harsh for educated, better off, or older women to seek internal relocation to a city. It helps if a woman has qualifications enabling her to get well-paid employment and pay for accommodation and childcare if required. Where a single woman, with or without children, is ostracised by family members and other sources of possible social support because she is in an irregular situation, internal relocation will be more difficult and whether it is unduly harsh will be a question of fact in each case.
33. On the basis of the evidence of her previous applications, her entry to the UK as a Tier 4 student, the renewal of her student visas until her college sponsorship licence was revoked and her answers in a previous application together with the postgraduate courses she has studied in the UK leave me to conclude that this appellant has been untruthful about the standard of her qualifications. It is of note that she has adduced no evidence of her claimed poor results in the various UK courses.
34. I agree with Mr Melvin's submission that it is not credible that she spent from 2007 to 2010 doing only a couple of short courses prior to obtaining her student visa to come

to the UK. I agree with him that it is far more likely that she was in fact continuing to study in Pakistan. No evidence has been provided that she did not complete her degree in Pakistan. The fact that she could already speak English before she came to the UK, sufficient for her to be able to study, is further evidence of the level of her education in Pakistan.

35. Even if the qualification in Pakistan was not considered good in Pakistan, the Level 5 and 6 qualification she has obtained in the UK would be. Not only does she have numerous qualifications both from Pakistan and the UK she is also fluent in both English and Urdu; an important factor in her ability to secure good employment.
36. Her counsel submitted and the appellant gave the impression of being a vulnerable woman at the hearing. However, that does not sit well with a person who has studied and obtained the qualifications that she has. There was no medical evidence before me to suggest that she is vulnerable. I understand of course that attending court and giving evidence is itself stressful. However, this appellant has been particularly resourceful in the past by leaving her family to stay with friends of her father's and securing a visa to come to the UK and studying as she did for a number of years.
37. It is telling that I have no evidence from the family who have been assisting her in Pakistan and in the UK who, according to her funded entirely her visa application, flights and support since in the UK. Entry clearance and living in the UK for a foreign national as a student is an extremely expensive business. The course fees far exceed those for British nationals and they are required to evidence that they have thousands of pounds available for their maintenance. This she not only had to establish when she applied for entry clearance but also when she obtained renewals of her visas. It is by no means clear, because the evidence has changed, but certainly someone is providing this lady with very large sums of money. I am very far from satisfied that her financial supporters would not continue to lend their help to her in Pakistan.
38. In truth therefore I find that here is a highly educated single lady from Pakistan who would continue to receive considerable support if she were to return and live in one of the large cities such as Islamabad. There is simply no evidence that her family would be in a position to know she had returned or to target her. She has been gone from their home for at least eight years. There is no reason why the appellant or anyone else would inform her family members that she had returned to Pakistan and therefore she would not be at risk if she lived elsewhere.
39. The appellant in this case is a far cry from the type of uneducated, vulnerable woman who has been entirely dependent on her husband/family and who has children to provide for who cannot be expected to relocate elsewhere in Pakistan. The immigration history for this appellant clearly shows that she has access to large sums of money.
40. For all of the above reasons I find it would not be unduly harsh for this appellant to live in a city in Pakistan away from her family and therefore her asylum appeal must fail. That being the only issue before me, the appeal to the Upper Tribunal is dismissed.

41. Given the findings that she has been ill treated by her family and would be at risk of ill-treatment by then if she returned to her home area, it is appropriate to continue the anonymity direction in this case.

Signed

Date 23rd July 2018

Upper Tribunal Judge Martin

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their 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.

Signed

Date 23rd July 2018

Upper Tribunal Judge Martin