Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number
PA/08105/2018

THE IMMIGRATION ACTS

Heard at Manchester
On 27th November 2018

Decision and Reasons Promulgated
On 12th December 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

H B A
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Miss A Faryl (Counsel, instructed by Lei Dat & Baig, Solicitors)
For the Respondent: Mr Diwnycz (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant's claim for asylum was refused for the reasons given in the Refusal Letter of the 21st of May 2018. The appeal was heard by First-tier Tribunal Judge Brookfield at Manchester on the 10th of August 2018 and dismissed for the reasons given in the decision promulgated on the 21st of August 2018. The Appellant sought permission to appeal which was granted by the First-tier Tribunal on the 13th of September 2018.

2. The Appellant's claim was that she had entered a relationship with a married man and when she fell pregnant by him her mother told her to leave and she ran away, she has since had a daughter. The Appellant's case is that she is at risk of an honour killing and that her daughter is at risk of FGM from her family.

3. The Judge rejected the claims that the Appellant and her partner were not married, finding that they are married and that in the IKR they would not be at risk of an honour crime. With regard to FGM the Judge found that the Appellant had herself been subjected to the procedure. However, the Judge went on to find that the Appellant and her husband would be able to protect their daughter in the IKR and that they could relocate within the IKR away from family members.

4. The grounds argue that the Judge erred in relying on an unsupported assumption that the Appellant would not be returned to Iraq alone and had not sought an assurance from the Secretary of State to that effect. It was also argued that the Judge had made contradictory findings in relation to FGM, having found that the Appellant herself had been subjected to the practice it was erroneous to find that the Appellant's daughter would not be at risk of FGM, there would come a time when the Appellant's child would not be watched continually.

5. The submissions of the representatives were brief and to the point and are set out in full in the Record of Proceedings. Mr Diwnicz said that the Secretary of State would not separate the family and that the assumption was reasonable. It turned out that the Appellant's partner/husband had made further representations in December 2017 which remained outstanding and it could not be said when they would be considered. I observed that as matters stood he is in the UK illegally and in breach of previous removal directions. In reply it was maintained that the proposed return would be as a single female and the grounds at paragraph 7 were expressly referred to.

6. With regard to the first ground regarding the Appellant's removal as a single female I am satisfied that there is no error. In rejecting the Appellant's account of being an unmarried mother the Judge effectively rejected what has to be the basis of the Appellant's husband's further representations. In any event at paragraph 10(xvii) the Judge found that if the Appellant and her daughter were returned to the IKR her husband would accompany her. The assumption that they would be removed as a family unit was entirely reasonable and consistent with Home Office policy. There is no error in this regard.

7. With regard to FGM the Judge had found that the Appellant would be in a position to obtain a CSID even without the assistance of her family as explained in paragraph 10(xix), and this finding in the latter part of the paragraph has not been challenged. The Appellant would not need to alert her family to her return and could relocate within the IKR. The Judge also found that FGM would not have been a topic of conversation in her partner's family household, an unchallenged finding, and so their attitude is not shown to be in favour and if they were there would still be the prospect of internal relocation.

8. This can also been seen in the light of the findings in paragraph 10(xvi). The Appellant's husband explained that they had not claimed in France as they feared return to Iraq following his unsuccessful asylum application in the UK. The Judge found that in those circumstances it was not credible that he would then seek to return to the UK. That clearly undermined the credibility of the claims made by the Appellant and her husband.

9. The decision has to be read fairly and as a whole. The grounds have taken aspects of the decision out of context and without referring to other relevant parts of the evidence and the findings made. Considering the decision in its entirety I am satisfied that the findings made were open to the Judge for the reasons given.

CONCLUSIONS

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 the decision.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Fee Award

In dismissing this appeal I make no fee award.

Signed: 

Deputy Judge of the Upper Tribunal (IAC)

Dated: 7 November 2018