



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08666/2016

THE IMMIGRATION ACTS

Heard at Field House
On 4 June 2018

Decision & Reasons Promulgated
On 21 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

[S K]

~~(ANONYMITY DIRECTION NOT MADE)~~

Respondent

Representation:

For the Appellant: Mr R Lawrence Tarlow, Senior Presenting Officer
For the Respondent: Mr J Fraczyk, counsel instructed by Lupins (Olympic Way)

DECISION AND REASONS

1. In this decision the Appellant is referred to as the Secretary of State and the Respondent is referred to as the Claimant.

2. The Claimant, a national of Pakistan, date of birth 16 March 1983, appealed against the decision of the Secretary of State dated 29 January 2017 to refuse asylum and Humanitarian Protection with reference to paragraphs 336 and 339F of HC 395 of the Immigration Rules (the Rules).
3. His appeal came before First-tier Tribunal Judge Boylan-Kemp MBE who allowed the appeal with reference to the Refugee Convention, protection grounds and also on human rights grounds.
4. The Secretary of State applied to challenge the Refugee Convention decision and on 22 January 2018 First-tier Tribunal Judge Bird gave permission. The essential challenge of the Secretary of State is that of a lack of adequacy of reasons given as to why there was not sufficient protection and thus internal relocation an option for this Claimant.
5. The Claimant put in a detailed Rule 24 response, in a nutshell, saying that the Judge had done enough and that substantively the Secretary of State's position was really a disagreement with the findings that were positively made in favour of the Claimant. Therefore the decision should not be interfered with. Mr Tarlow helpfully reverts in his submissions to, in essence, the grounds. It is quite apparent that the Judge made a number of positive findings in favour of the Claimant and gave, not that that is challenged, sufficient reasons for them and sufficient reasons why the expert evidence provided by Dr P Giustozzi was accepted in terms of part of the background evidence and material as to the risks the Claimant might face on return. It is right to say that the events that gave rise to the Claimant's concerns happened a reasonably long time ago, in or about 2010. That may be right but I bear in mind that, as Mr Tarlow says, Pakistan is a highly populated country of something like 200 million people. Therefore, he submits it raised doubts about the assessment the Judge could have made as to the reasonable likelihood of risk on return or once living back in Pakistan.

6. Mr Fraczyk essentially argued that the Judge has given sufficient reasons and explained why she believed the Claimant's claim and, more importantly, why she accepted the likelihood of a continuing risk on return.

7. The Court of Appeal, not least in the recent case of MD (Turkey) [2017] EWCA Civ 1958 has indicated once again that unless there is the real likelihood a realistic assessment can be made that a different decision would be reached, the Upper Tribunal should be slow to interfere in such decisions. Mr Tarlow may correctly say that what the Judge did was poor and insufficient and to that extent an error of law may arise but I am considering not just whether or not that error of law may have occurred but whether it is material and a reasonably informed Tribunal of the same facts in the light of the unchallenged findings that the grounds do not make that decision might be different. I reach the view with respect to the Secretary of State's position that it seems to me this is a decision which I might not have reached but that matters not. It is a question of whether there were sufficient, adequate and proper reasons given and it seems to me, read as a whole, the answer is there were by the Judge and accordingly it would be wrong to interfere with that part of the decision which is only challenged in relation to the asylum protection claim. For those reasons I conclude that the appeal fails.

NOTICE OF DECISION

The appeal is dismissed.

No anonymity direction is made.

Signed

Date 15 June 2018

Deputy Upper Tribunal Judge Davey