



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

PA/09223/2017

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House
On 14th February 2018

Decision and Reasons Promulgated
On 27th February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

T R
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr L Rahman (Counsel, instructed by Edward Alam & Associates)
For the Respondent: Mr L Tarlow (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appeal to the Upper Tribunal is by the Secretary of State. To avoid confusion I have retained the titles the parties were given in the First-tier Tribunal proceedings and so Ms T R is the Appellant and the Secretary of State the Respondent.
2. The Appellant entered the UK as a student in 2010. An application under Tier 4 of the points based system was rejected and the appeal dismissed in August 2013 after which the Appellant remained in the UK. A further application was made and refused in October 2013 without a right of appeal and in June 2016 a further application and refusal, certified, followed by this asylum claim on the 7th of March 2017.
3. The asylum claim was made on the basis that the Appellant had rejected a marriage proposal following which she had been threatened by her suitor, disowned by her family and that she would be in danger in Bangladesh. The application was refused for the reasons given in the Refusal Letter.

4. The appeal was heard by Judge Carroll at Taylor House on the 18th of October 2017 and allowed for the reasons given in the decision promulgated on the 30th of October 2017. In that decision the Judge accepted the Appellant's account having regard to Police reports and the formal warning that her suitor was given, these were provided to the First-tier Tribunal but had not been before the Secretary of State. The Judge accepted that the Appellant had been disowned by her family in Bangladesh and that objective evidence showed that the Appellant would not be able to relocate within Bangladesh. At the end of paragraph 21 the Judge stated “She has been diagnosed as suffering from severe depression and post-traumatic stress disorder and is only now beginning to access medical help.”
5. The Secretary of State sought permission to appeal to the Upper Tribunal in grounds of the 9th of November 2017. The grounds were that the Judge did not have full regard to the Secretary of State’s case mentioning the Home Office Presenting Officer only once in the determination and in the circumstances had not given adequate reasons for finding in favour of the Appellant. The second ground is that the Judge placed significant weight on the medical evidence from the GP and erred in accepting the evidence as probative referring to a number of cases on the assessment of medical reports. Permission was granted on the 5th of December 2017.
6. At the start of the hearing I indicated to the Appellant's representative that I had concerns about the contents of the GP’s letter, it was not clear when or by whom the diagnosis of PTSD had been made or the information that had been relied on in the assessment. Mr Rahman observed that this was not an article 3 case and submitted that the Judge had approached the case on a factual basis and the Police Reports. That was slightly out of the usual and so I turned to Mr Tarlow for his submissions.
7. Mr Tarlow was brief and to the point relying on the grounds of application. He submitted that in paragraphs 15 and 16 the Judge had placed undue weight on the GP’s letter which had been written on the basis of what the Appellant had said and had not been balanced against the Presenting Officer’s submissions.
8. For the Appellant it was observed that the Judge had summarised the Secretary of State’s case in paragraphs 8 and 9 of the decision. the previous decision had been referred to and the Judge considered that the Appellant had not been willing to raise the true basis of the claim. The Appellant and the witnesses had been found to be credible about their being an abusive relationship and there were the Police reports. The Judge found that the family had been contacted and had disowned the Appellant.
9. The important of any judgment is that it is clear what the decision is and why. From that it must be clear that the Judge has considered relevant factors and not placed undue weight on factors that have less or no relevance. The judge clearly summarised the Secretary of State’s case in paragraphs 8 and 9 and it is against that background that the Judge went on to assess the evidence. It has to be observed that with the Police reports and the warning of the Appellant's former partner the evidence before the Judge was somewhat more extensive than that available to the Secretary of State. This was reflected in the refusal to make a fee award.
10. Although the Judge set out the GP’s letter at length in paragraph 15 and the other medical evidence in paragraph 16 no findings were made on the information at that stage. The discussion of the evidence and the Judge’s findings follow at paragraphs 18, 19 and 21. The Judge was obliged to place the evidence of the witnesses in the context of the information from the Police

and to assess it in that light. This was not an unreasoned or wholesale acceptance of the Appellant's case, a cassette relied on by the Appellant was not considered by the Judge as there was no evidence as to its provenance.

11. The only reference in the discussion to the medical evidence is that the Appellant was profoundly affected by events in the UK but that cannot be said to be a central or even significant part of the reasoning of the Judge. If the final sentence of paragraph 21 is ignored then the remaining reasons, albeit brief, were open to the Judge. As noted above the Judge had evidence before him that was not before the Secretary of State and the Police evidence was particularly relevant.
12. On reflection my concerns about the GP's letter remain as the bald statement about the diagnosis of PTSD is so lacking in supporting information that it would be wrong to place any weight on it. However read as a whole it cannot be said that the GP's letter played any role in the Judge's reasoning. Accordingly the Secretary of State's grounds have no merit as they challenge an aspect of the evidence on a basis that is not justified. It was not suggested by the Secretary of State that the Judge's reasoning was flawed in any other way or that the Appellant could relocate within Bangladesh.

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 did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I make no order.

Fee Award

The First-tier Tribunal made no fee award and I make no fee award.

Signed:


Deputy Judge of the Upper Tribunal (IAC)

Dated: 22nd February 2018