



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/13481/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at North Shields**

**On 14 September 2018**

**Decision &  
Promulgated  
On 01 October 2018**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE APLEYARD**

**Between**

**MRS S K  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mrs Brakaj, Counsel.

For the Respondent: Mr Diwnyz, Home Office Presenting Officer.

**DECISION AND REASONS**

1. The Appellant is a national of Pakistan who made an application for international protection. It was refused and she appealed and following a hearing, and in a decision promulgated 26 April 2018, her appeal was dismissed by Judge of the First-Tier Tribunal Traynor.
2. The Appellant entered the United Kingdom as a student in 2012 and secured an extension of her leave to remain until 2016. Her husband and children had joined her in the United Kingdom during that residence. Her husband became ill and was hospitalised in 2017, during which time the Appellant contacted the police as she had been subjected to domestic violence. The police assisted the Appellant to leave the family home and she was accommodated in a women's refuge along with her children. Her

husband then returned to Pakistan in unclear circumstances. The Appellant then made an application for international protection.

3. The Respondent took no issue with her credibility and accepted the domestic violence suffered, the threats made to her by her husband, and also that she had a subjective and genuine fear of return to Pakistan. However, the Respondent considered she could internally relocate and access a sufficiency of protection. The Respondent did not accept that Appellants husband's uncle who is an MP in Pakistan, and influential, would have the power to influence in Pakistan to facilitate the Appellant being located by her husband.
4. The Appellant sought permission to appeal which was granted by Judge of the First-Tier Tribunal Chamberlain on 17 May 2018. Her reasons for so doing were: -
  - “1. The Appellant seeks permission to appeal, in time, against a Decision of First-tier Tribunal Judge Traynor who, in a Decision and Reasons promulgated on 26 April 2018, dismissed the Appellant's appeal against the Respondent's decision to refuse a grant of asylum.
  2. The grounds assert that the Judge erred in reaching inconsistent conclusions as to the credibility of threats, which had been accepted by the Respondent. Further, the Judge erred in his approach to the country guidance, SM (Lone women - ostracism) CG [2016] UKUT 67 (IAC). He further erred in the assessment of whether there was sufficiency of protection.
  3. I have carefully considered the decision. At [33] the Judge states that the Respondent accepted that the Appellant had been threatened. However he finds that there is no evidence, other than what she informed me orally at the hearing, that her husband or his family have made any threats towards her” [47]. This was not the first time she had said she had been threatened, and I find that this is an arguable error of law, especially given the Respondent's acceptance of the threats. Given the relevance of threats to the risk on return, I find that it is material. In relation to SM, it is arguable that the Judge failed to look at the wider factors set out there [49]. Although the guidance in KA is referred to [47], it is also arguable that there has been insufficient consideration of the attitude of the police to cases involving domestic violence.
  4. The grounds of appeal are arguable and merit the grant of permission to appeal.”
5. Thus, the appeal came before me today.
6. Mrs Brakaj, in making her submissions, expanded the grounds seeking permission to appeal with particular reference to the first ground where it is submitted that the Judge has come to inconsistent conclusions as to the credibility of the threats made to the Appellant and that Judge Traynor's findings in this regard are consequently unsafe. At paragraph 47 of his decision the Judge states “there is no evidence, other than what she informed me orally at the hearing, that her husband or his family have made any threats towards her. Moreover, there is nothing to suggest that her parents have reported such threats to the police in order that they can

protect themselves from alleged repercussions arising from her separation.”. The Judge has erred in not directing himself appropriately or at all as to the Appellant’s evidence given in her interview and has further erred at paragraph 42 of the decision by stating that the only evidence of threats arises from the Appellant’s contention that there was a telephone call. This is inaccurate and does not reflect the Respondent’s own position as detailed at paragraphs 39 onward of the refusal letter where it is accepted that the Appellant was threatened and that she has demonstrated a genuine subjective fear on return to Pakistan. Mrs Brakaj argued that this error and its consequent finding has played a central part in the Judge’s decision making resulting in him coming to the conclusion that he did. She also submitted that the Judge had erred in his overall credibility assessment and had effectively sought corroboration when none was required.

7. Mr Diwnyz was unable to resist these arguments which in any event, had not been the subject of a Rule 24 reply.
8. I shared Mrs Brakaj’s analysis. The Judge has materially erred within his credibility assessment and has failed to recognise the Respondent’s own position as detailed within the refusal letter.
9. Given this material error both parties invited me to remit this appeal to the First-Tier Tribunal for a de novo hearing. Plainly there has to be fresh findings made and accordingly it is the course I intend to adopt.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge Traynor.

### **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  
Deputy Upper Tribunal Judge Appleyard

Date: 24 September 2018