



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

Appeal Number: PA/00493/2019

THE IMMIGRATION ACTS

**Heard at Glasgow
on 18 July 2019**

**Decision & Reasons Promulgated
On 25 July 2019**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

S K

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr R Liaquat, of Anderson Rizwan, Solicitors
For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. By a decision promulgated on 14 March 2019, FtT Tribunal Judge Doyle dismissed the appellant's appeal on asylum, humanitarian protection and human rights grounds.
2. The appellant sought permission to appeal to the UT in respect only of the outcome on human rights.
3. Mr Whitwell conceded that the decision errs in law at paragraph 30, where the judge finds nothing to show that return to Pakistan would result in neglect or destitution for the appellant and her children, because those

are not the tests. He said that the judge had not decided the correct question, whether it would be reasonable to expect the children to leave the UK (the oldest of the 3 children appearing to be a qualifying child, in terms of section 117B(6) of the 2002 Act) and that the decision should be set aside.

4. The appellant has not tendered any further evidence. Mr Liaquat acknowledged that the outcome to be expected was for the UT to remake the decision based on evidence already tendered, and upon submissions. However, having been given time to consider the position further with his client, he indicated that updating evidence should have been obtained and an application should have been made for its admission. The fault was his.
5. Mr Whitwell, fairly, did not oppose the appellant having the opportunity to update her evidence, and in that light, it was agreed that the case should be remitted.
6. The decision of the FtT, in so far as it dismissed the appeal on asylum and humanitarian protection grounds, stands unchallenged. The decision, in so far as it dismissed the appeal on human rights grounds, is set aside. It stands also as a record of what was said at the hearing.
7. Under section 12 of the 2007 Act, and under Practice Statement 7.2, the case is remitted to the FtT for a fresh hearing, on human rights only. The member(s) of the FtT chosen to consider the case are not to include Judge Doyle.
8. Parties agreed that the decisive question is whether it would be reasonable to expect the children to leave the UK.
9. I observe incidentally that although the grounds and the grant of permission take *JG* [2019] UKUT 72 as a point of reference, in this case both parties envisage that the appellant, her husband and their three children would leave or remain together. The facts do not appear to be analogous to *JG*. However, any relevance which *JG* may have is a matter for the FtT.
10. The FtT made an anonymity direction, which is maintained.



18 July 2019
UT Judge Macleman