



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02656/2019

THE IMMIGRATION ACTS

Heard at Field House
On 13 September 2019

Decision & Reasons Promulgated
On 24 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

MS SYEDA SABAH KHALID
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No Appearance.

For the Respondent: Ms A Fijiwala, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant is a citizen of Pakistan who made an application for international protection. It was refused and she appealed, and following a hearing, and in a decision promulgated on 31 May 2019, Judge of the First-Tier Tribunal D S Borsada dismissed the Appellant's appeal.
2. The Appellant sought permission to appeal. This was granted by Judge of the First-Tier Tribunal Bird in a decision promulgated on 5 August 2019. Her reasons for so granting were: -

"1. As Judge of the First-tier Tribunal dismissed the appeal of the appellant, a national of Pakistan, brought against a decision of the respondent dated 7 February 2019.

2. *The appellant seeks permission to appeal against this decision on the grounds that the judge made arguable error of law. It is alleged that in refusing the appellant's request to transfer the appeal closer to her home, the Tribunal has acted unfairly. Further she was denied a fair hearing despite her informing the Tribunal that she was having problems in her pregnancy, and evidence of her having to have a scan. The judge went ahead in her absence.*

3. *It is arguable that in failing to take into account the medical evidence and the fact of the appellant's early pregnancy and the distance between the appellant's home and the hearing centre, the Tribunal acted unfairly. There has been a procedural error which is an arguable error of law."*

3. Thus, the appeal came before me today.
4. At 11.25 am there was no appearance from the Appellant. I asked my Clerk to check the building to ensure that she was not present. That, he duly did and at 11.30 am I was told that she was neither present in the building nor had reported to reception.
5. I was satisfied that the Appellant had been properly served with notice of today's hearing. The notice was sent to the last known address to the Tribunal by 1st class post on 14 August 2019. In the circumstances I considered it just to proceed with the appeal.
6. Ms Fijiwala relied upon the Respondent's response to the grounds of appeal under Rule 24. Therein it is submitted that the Judge set out the Appellant's immigration history and the long list of failed applications. At paragraph 4 of his decision the Judge considered whether he could safely proceed absent any representations from the Appellant's representatives. He also took into account a request made earlier in the proceedings to move this appeal hearing from the Birmingham hearing centre to another. It had been refused and at the hearing before Judge Borsada there was no further representation. The Judge then went on at paragraphs 10 and 11 to consider the weight to attach to evidence, looked at the totality of the documentary evidence within the appeal and made findings which resulted in him dismissing it.
7. For completeness paragraph 4 of Judge Borsada's decision states: -

"4. This matter came before me on 24th May 2019 at the hearing centre in Birmingham, Priory Court. On this occasion the respondent was represented by Ms Tabassum, the Home Office Presenting Officer. The appellant was not present and there was no one present on her behalf either. I was able to confirm from information provided to me by the Tribunal that notice of the hearing had been sent by first class post on 10th May 2019 and that it was sent to both the appellant and her legal representative. I also noted that an application to have the hearing transferred to the Hatton Cross hearing centre had already been rejected by Assistant Resident Judge O'Brien and a copy of that decision sent to the appellant on 8th May 2019 at her last known address. Judge O'Brien did not accept that there was any medical evidence which clearly indicated that either the appellant or her unborn would be endangered by the hearing taking place in Birmingham as had been suggested by the appellant and her representative and that in those circumstances the hearing was to remain listed in Birmingham. In default of any medical evidence from the appellant following Judge O'Brien's decision and in the absence of any further representations from the appellant and her representatives about her inability to attend the hearing I decided to proceed with the

hearing in the absence of one of the parties in accordance with the relevant procedure rules having considered it in the interest of justice and fairness so to do. The respondent's representative then made submissions concerning the hearing and the appeal hearing concluded with my decision being reserved."

8. The Judge was satisfied that there was no medical evidence, either at the time of the decision of Judge O'Brien refusing transfer of the hearing venue, or at the time of the substantive hearing, which would indicate that either the Appellant or her unborn child would be endangered by the hearing proceeding in Birmingham as listed. In the absence of any further representation it was open to the Judge to proceed to hear the appeal. In so doing he did not materially err.
9. The Appellant failed to attend today's hearing. There is no indication from her as to why she is unable to attend.
10. There is here no material error of law.

Notice of Decision

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.

No anonymity direction is made.

Signed

Date: 19 September 2019

Deputy Upper Tribunal Judge Appleyard