



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

Appeal Number: PA/06007/2018

THE IMMIGRATION ACTS

**Heard at Birmingham
On 22 MARCH 2019**

**Decision & Reasons Promulgated
On 28 MARCH 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**TCG
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Dixon

For the Respondent: Mr Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 4 September 1996 and is a female citizen of Afghanistan. She entered the United Kingdom in January 2016 claimed asylum in July 2017. Her protection claim was refused by the Secretary of State on 28 April 2018. She appealed to the First-tier Tribunal which, in a decision promulgated on 19 October 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. Both parties accept that the appellant is a Sikh woman and that her home area of Afghanistan is Khost Province. The judge did not accept the appellant's claim that, whilst engaged to another man, she had met a man

from Russia, who was originally from Afghanistan, with whom she then eloped. The judge considered the risk to Sikhs in Afghanistan and had decided not to depart from the existing country guidance of *TG and others* (Afghanistan Sikhs persecuted) Afghanistan CG [2015] UKUT 00595 (IAC). He found that there were no 'very significant obstacles' to the appellant's private life continuing in Afghanistan (Paragraph 276ADE of HC 395 (as amended)).

Credibility

3. The appellant challenges the judge's assessment of her credibility. She argued as follows: The judge ignored historical links between Russia and Afghanistan; it was not implausible that the appellant should meet an Afghan who was living in Russia. The judge had imposed Western concepts of relationships/marriage onto the appellant's account. The judge had failed to take account of the possibility of 'love at first sight.' It was not open to the judge at [65] to dismiss the appellant's account as 'lacking real depth.'
4. I find that this ground of appeal lacks merit. In essence, the ground is no more than a disagreement with findings which were available to the judge on the evidence. It may be the case that the judge has underestimated the links between Russia and Afghanistan when considering the plausibility of the appellant's account but the fact remains that the judge has given a number of compelling reasons for rejecting the reliability of that account. Before commencing his analysis credibility, the judge accepted the submission of Mr Dixon, who appeared for the appellant before both Tribunals, that he should be careful not to consider the appellant's account 'through Western eyes.' I have no reason to suppose that he ignored this self-direction. As regards, 'love at first sight', I have no doubt the judge had regard to his own experience of human relations in reaching his findings of fact. I also consider that the judge did not err by characterising the appellant's evidence as lacking 'real depth.' The appellant's witness statement is rather brief and it was open to the judge, having considered all the evidence as he says he has, to find that the lack of detail in the appellant's account was an indication that the account was not true or accurate.

The Risks to Sikhs in Afghanistan

5. Irrespective of the accuracy of the appellant's account of past events, she asserts that she would be exposed to a real risk of ill-treatment if returned to Afghanistan. Mr Dixon, although he had not asked the judge to depart from the country guidance of *TG*, submitted that the country guidance authority should be read in the light of new evidence, in particular recent UNHCR Guidelines and evidence that the Sikh community in Afghanistan is rapidly shrinking; a European Asylum Support Service report of June 2018 (which was not before the First-tier Tribunal) indicates that the community is now small as 900 individuals.

6. At [70-71], the judge wrote:

“The country guidance caselaw of TG makes clear that members of the Sikh community in Afghanistan do not face a real risk of persecution and ill-treatment such as to entitle them to a grant of international protection on the basis of their ethnic or religious identity, *per se*. Neither can it be said that the cumulative impact of discrimination suffered by the Sikh community in general reach the threshold of persecution.

Whilst I have taken into account the country information contained within the appellant’s bundles, I am not persuaded that it carries enough probative force to persuade this Tribunal to depart from the country guidance caselaw in relation to the Sikh community which was issued in 2016.”

7. Other than the further diminution in the size of the Sikh community, the appellant offers no other evidence which would indicate that the guidance of *TG* is now out of date and not to be followed. The problem with the evidence regarding the size of the community is that it appears to be based upon general estimates rather than hard research. There seems little doubt that the community is shrinking rather than growing but the rate of shrinkage or the current size of the community is not at all clear. It is simply not possible to conclude that the judge erred in law by choosing to follow the country guidance rather than to depart from it on the basis that the conclusion in *TG* that Sikhs *per se* are at risk because their numbers have diminished. It was clearly open to the judge, having properly considered the evidence produced by the appellant, to decide to follow the existing country guidance.
8. The appellant also relies on the comments made in *TG* regarding women, in particular. Reference is made in the country guidance to the lack of access of women to educational opportunities and employment and their forced dependence on a male guardian in order to access public spaces. The Tribunal in *TG* does not, however, go so far as to conclude that Sikh women would be at risk generally. I am satisfied that the judge has read the country guidance and has followed the advice contained in it to consider the appeal on its specific facts.

Paragraph 276ADE (vi): Very Significant Obstacles to Integration

9. The appellant relied on the same evidence in support of her human rights claim. The judge did not accept that any Sikh family with young children (the appellant has twins born in August 2016) will encounter ‘very significant obstacles’ to integration in Afghanistan. He found that family would not fall within the ambit of Paragraph 276ADE on the basis of discrimination in the education system in Afghanistan.
10. I find that the judge has reached a conclusion available to him on the evidence. Judge makes the valid point that much of the evidence upon which the appellant relied regarding the difficulties in accessing education, in particular difficulties for girls, apply throughout all communities in

Afghanistan and not just to Sikhs. I cannot say that in the judge's analysis is vitiated by legal error.

11. For the reasons I give above, the appeal to the Upper Tribunal is dismissed.

Notice of Decision

12. This appeal is dismissed.

Signed

Date 22 March 2019

Upper Tribunal Judge Lane

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 his 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.