



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

Appeal Number PA/07838/2018

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 21st February 2019**

**Decision and Reasons Promulgated
On 8th March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

**A M I S
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss S Sanders (Counsel, instructed by Lei Dat & Beg, Solicitors)
For the Respondent: Mr McVeety (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant's asylum appeal was rejected by the Appellant for the reasons given in the Refusal Letter of the 6th of June 2018. The Appellant's appeal was dismissed by First-tier Tribunal Judge Moxon in a decision promulgated on the 15th of August 2018. The Appellant was granted permission to appeal to the Upper Tribunal on the basis that it was arguable that the Judge had erred in not following the relevant country guidance case and in relying on more recent evidence provided by the Respondent.
2. The Appellant is a non-Arab Dafuri from Sudan. In the decision the Judge noted that the Appellant had lived in the greater Khartoum area until the age of 22 and attended university and that her family remained in Sudan. The Judge found that the Appellant had not come to the adverse attention of the authorities or that she had been politically involved as claimed or at all. From paragraph 38 onwards the Judge assessed the risk to the Appellant and in paragraphs 38 to 58 gave his reasons for not following the country guidance in relation to non-Arab Dafuris living in Khartoum although he accepted that the situation would be different outside the city.

3. The Appellant sought permission to appeal to the Upper Tribunal on the basis that the Judge had not taken account of country guidance cases. Permission was refused by the First-tier Tribunal but granted by the Upper Tribunal on a renewed application. The parties made submissions in line with their respective positions, these are set out in full in the Record of Proceedings.
4. There is no dispute that there are relevant country guidance cases that cover the position of non-Arab Darfuris in respect of the risks that they may face on return to Khartoum. The relevant cases are AA (Non-Arab Darfuris-relocation) Sudan CG [2009] UKAIT 56 and MM (Darfuris)Sudan CG [2015] UKUT 10 (IAC). The Appellant's case is that whatever credibility findings were made in respect of the Appellant's claim the Appellant is entitled to international protection simply by virtue of the effect of the findings in the 2 cases and her being a non-Arab Darfuri.
5. The Judge did refer to the country guidance cases cited above and other relevant authorities in the section of the decision dealing with country guidance cases, paragraphs 10 to 13. Clearly those cases and the effect of the decisions were in the Judge's mind in the course of the decision-making process. That explains why the Judge set out in some detail the evidence that was considered at paragraphs 38 to 53. In paragraph 55 the obligation to follow country guidance cases was noted and the following paragraphs contained the reasons why the Judge, on the basis of the facts found and the rejection of the Appellant's credibility with regard to her account, felt justified in making the departure that he did.
6. Were the reasons given sufficient to justify departing from the country guidance? In my view the reasons given by the Judge were sufficient. The decision cannot be said to be superficial, the findings of fact were made on a justified analysis of the Appellant's evidence and have not been challenged. The Judge clearly had regard to the country guidance cases and the fact that they were to be followed unless departure could be justified and carefully analysed the evidence the Home Office relied on and considered it in the context of the case as a whole. The risk to the Appellant was placed in the context of her lack of any profile and that she had left Sudan legally.
7. In paragraph 56 the Judge took the view that the evidence relied on led to a finding that there had been significant and durable change. That evidence was reflected by the Appellant's own ability to obtain education to university level and her travel in and out of Sudan. The latter indicated an absence of the Appellant having a general fear in Sudan and was a view open to the Judge in the circumstances.
8. In summary the Judge was aware of the relevant country guidance cases and their binding nature and of the need to provide reasons for declining to follow the authorities. The review of the available evidence that the Judge relied on showed that the exercise was not superficial and the reasons given for departing from the authorities were combined with an examination of the Appellant's own circumstances on findings in relation to her account which have not been challenged.

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 made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Fee Award

In dismissing this appeal I make no fee award.

Signed: 

Deputy Judge of the Upper Tribunal (IAC)

Dated: 4th March 2019