



Upper Tribunal

(Immigration and Asylum Chamber) Appeal Number: PA/08848/2017

THE IMMIGRATION ACT

**Heard at Civil Justice Centre
Manchester**

On 29th April 2019

**Decision & Reasons
Promulgated**

On 03rd May 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

Nadia [H]

(NO ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Moriarty, Counsel instructed by Elaahi Solicitors

For the Respondent: Mr Tan, Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Chana promulgated on the 6th June 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's claims based on Asylum, Humanitarian Protection and Articles 2 and 3 of the ECHR.
2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by Upper Tribunal Judge Smith on 19th December 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.
4. Submissions were made by the appellant's representative in part dealing with the approach taken in respect of the medical evidence. There were reports from a consultant psychiatrist, Professor Katona, with confirmatory evidence from a consultant psychologist, Dr Thomas.
5. The respondent's representative accepted that the medical practitioners concerned were qualified to make an assessment as to the mental state of the appellant and were entitled to make that assessment on the basis of their interviews with the appellant and their observations of her. The conclusion by the medical professionals was that the appellant was suffering from schizophrenia.
6. The judge in the final paragraph of the decision had indicated that the medical practitioner's assessment of the appellant was not accepted as there evidence was based on the appellant's version of events which was inconsistent. It was accepted by the respondent's representative in part that that may beg the question that the evidence was inconsistent because the appellant was suffering from schizophrenia. The inconsistencies and other evidential issues were specifically dealt with by the medical practitioners, giving potential explanations for such contradictions by reason of the appellant's medical condition. The practitioners had medically examined the appellant and come to the conclusion that the appellant was exhibiting symptoms typical of schizophrenia.
7. In the reports it was noted that there had been a marked deterioration in the condition of the appellant, so much so that the medical opinion was to the effect that the appellant could not give evidence as it would be too traumatic for her and she would not be able to cope with giving evidence given her mental condition.
8. By comparison the judge indicated that there was no plausible explanation provided by the expert as to why the appellant could not give evidence. That appears to wholly ignore the medical expert

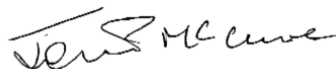
opinion as to the mental health of this appellant and the ability of the appellant to function.

9. There were other issues with regard to other medical evidence. It had been accepted at the interviewing officer that the appellant had shown a series of burns on her body to the interviewing officer. Dr Bhatt had referred to the burns as being part of some traumatic event which may have causal effect in the appellant's mental condition. Dr Bhatt had referred the appellant for mental health assessment. It did not appear to be an issue that the appellant had burns, although the causation for those burns was dependent purely upon the explanation given by the appellant. The burns themselves would however give some degree of support to the account given by the appellant.
10. By comparison the judge stated in paragraph 39 that there was no evidence to demonstrate these burns on the appellant's back. Whilst it may be taken that the judge could have been referring to the causation for the burns, it is not entirely clear. It may be that the judge was questioning the existence the burns themselves.
11. That having been said given the approach of the judge to the medical evidence it was conceded by the respondent's representative that the approach by the judge did disclosed an error of law and that the only proper course was for this matter to be remitted back to be heard afresh.
12. The circumstances I rule that there is a material error of law in the decision of the First-tier Tribunal.

Notice of Decision

13. I allow the appeal to the extent that the decision is set aside and the matter is remitted to the First-tier Tribunal for hearing afresh.
14. None of the findings of fact in the case of preserved.

Signed



Deputy Upper Tribunal Judge McClure
April 2019

Date 29th