



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/10318/2018

THE IMMIGRATION ACTS

Heard at Field House
On 11th January 2019

Decision & Reasons Promulgated
On 5th February 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

A L N
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Dolan, Counsel, instructed by Duncan Lewis & Co Solicitors

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Vietnam whose date of birth is recorded as 1st June 1996. She made application for international protection as a refugee on 17th July 2017. Although a positive “reasonable grounds” decision had been made in her case with respect to trafficking, on 31st July 2017 a negative “conclusive grounds” decision was made.

2. On 3rd August 2018 a decision was made to refuse the application but the Appellant appealed. Her appeal was heard by Judge of the First-tier Tribunal Andrew on 24th October 2018 at Birmingham.
3. Judge Andrew came to the view that the Appellant, overall, was not a credible witness. She identified a number of inconsistencies in the account and came to the view ultimately set out at paragraph 36:

"I am satisfied she has come to the United Kingdom as an economic migrant with the intention of working here in a nail bar, as she has said".

4. Not content with that decision by Notice dated 9th November 2018 application was made for permission to appeal to the Upper Tribunal.
5. There were three grounds. The first ground attacks paragraph 30 of the Decision and Reasons wherein the judge had found that the Appellant had not claimed asylum despite being offered to do so, though that ground is not pursued before me.
6. In relation to Ground 2 it is submitted that insufficient, or inadequate, findings were made in relation to the risk of re-trafficking. Although Judge Andrew had had regard to the case of **Nguyen (Anti-Trafficking Convention: respondent's duties) [2015] UKUT 170**, it is the Appellant's contention that there was, before the judge, other country material postdating the country guidance case which would have entitled the judge to come to the view that as an orphan and lone woman returning to Vietnam without economic means, she would have been at real risk of being trafficked or re-trafficked as the case may be.
7. The third ground submits that the judge went behind the concession made at paragraph 34 of the refusal letter, dated 3 August 2018.
8. The focus of the submissions made before me however was on whether it was open to the judge to find that the Appellant had lacked credibility and more particularly whether the decision was adequately reasoned.
9. Mr Dolan submitted that the Appellant's case was rather complex and yet the decision was rather brief given the amount of evidence that there was. He also pointed to the fact that the judge at paragraph 22 of the decision had accepted that the Appellant had been broadly consistent in relation to part of her claim, which related to forced domestic servitude in Vietnam, so that she was satisfied that the Appellant was taken to Russia by a third party and then passed to another.
10. Mr Dolan invites me to find that the judge's approach to credibility overall was flawed given that initial positive finding in the Appellant's favour. However I disagree. The judge was required to have regard to the totality of the evidence. Paragraph 23 immediately following the recognition that there had been an aspect of the Appellant's case in respect of which the Appellant had been broadly consistent said as follows:

“However, I find much of the Appellant’s claims following this to be inconsistent and implausible. The Appellant claims that one day she was asked to accompany Mrs Hanh to her market stall where she spoke to some men and disappeared. In evidence the Appellant told me that there was a melee and during this she was captured by men who put her in a lorry”.

11. In other words, having considered that part of the case in which the Appellant was broadly consistent, the judge immediately turned her mind to the rest of the evidence and then set out why, overall, the Appellant was found not to be a reliable witness. The judge has taken from paragraph 23 to 36 albeit in short paragraphs to explain her reasoning.
12. In my view the findings which the judge made were open to her and once she came to the view overall that the Appellant was not a reliable witness, the circumstances in which the Appellant was taken to Russia and passed from one person to another has to be seen in the context of the overall finding that this was part of the Appellant’s desire to get to the United Kingdom to work.
13. The failure on the part of the judge even if made out that she did not have regard to any other background material is not material in my judgment once it was found that the Appellant lacked credibility.
14. I invited Mr Dolan to tell me whether there were any matters with which I ought to deal more fully, given the other grounds and the issue of whether they were material which given the general credibility finding, for the avoidance of doubt, I considered, were not. He was content that I had dealt with all the matters and had nothing to add.
15. In the light of what I have said above it follows that the appeal to the Upper Tribunal is dismissed.

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 their 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.

Signed

Date: 28 January 2019



Deputy Upper Tribunal Judge Zucker