



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

Appeal Numbers: PA/13723/2018
PA/13724/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 26th April 2019**

**Decision & Reasons
Promulgated
On 15th May 2019**

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

**MAH AND MK
(ANONYMITY DIRECTIONS MADE)**

Appellants

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr J Sarker of Counsel, instructed by Adam Bernard Solicitors

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellants appeal against the decision of First-tier Tribunal Judge Greasley promulgated on 18 January 2019, in which their appeals against

the Respondent's respective decisions to refuse their protection and human rights claims, both dated 28 November 2018 were dismissed.

2. The Appellants are nationals of Pakistan and are daughter and her mother, born respectively on 17 May 1992 and 6 January 1959. The Appellants were both issued with a visit visa to the United Kingdom on 19 May 2011, valid for six months, pursuant to which they entered the United Kingdom on 14 July 2011. Upon the expiry of their visit visas, both have remained unlawfully in the United Kingdom. An application was made for leave to remain on Article 8 grounds on 4 February 2013, which was refused with no right of appeal on 16 July 2013 by the Respondent. The Appellants claimed asylum on 21 April 2016 and the First Appellant's daughter was added as a dependent on her claim following her birth on 29 January 2017. The claims for asylum were on the basis of fear of return to Pakistan of gender-based violence as women and a specific fear of the Appellants' uncle and cousins/brother-in-law and nephews with whom the family used to live and whom it is claimed abused the Appellants and one of whom attempted to rape the First Appellant.
3. The Respondent refused the applications for similar reasons, primarily, that although in some respects the claims were given the benefit of the doubt, they were rejected overall due to significant inconsistencies in the accounts and on the basis of adverse credibility findings, including because of the delay in the claim for asylum. In any event, the Respondent considered that there was a sufficiency of protection for both of the Appellants and they had the option of internal relocation within Pakistan. Their claims under Articles 2 and 3 of the European Convention on Human Rights were rejected on the same basis and neither met the requirements of the Immigration Rules for a grant of leave to remain on the basis of private or family life. Separate consideration was given to the medical conditions of the Appellants, but the Respondent considered that suitable treatment was available in Pakistan and neither would meet the very high threshold for a grant of leave to remain on this basis.
4. Judge Greasley dismissed the appeals in a decision promulgated on 18 January 2019, primarily on the basis of adverse credibility findings against both of the Appellants in light of significant and material inconsistencies in their claims. He did not find that they would be at real risk of persecution on return to Pakistan and their protection claims were therefore refused on all grounds. The appeals were also dismissed on Article 8 grounds. I return below to the detail of the decision and reasons given for the adverse credibility findings which are relevant to this further appeal.

The appeal

5. The Appellants appeal on eight grounds, albeit there is an overlap between them, which are as follows. First, that the First-tier Tribunal erred in finding an inconsistency in the Appellant's ability to travel to the United Kingdom in light of the claim that they were under the control of extended family in Pakistan and had very limited financial resources. Secondly, that

the First-tier Tribunal made a factual error when relying on evidence from the First Appellant in her written statement of a barter marriage being agreed in her childhood and also in relation to her education in Pakistan. Thirdly, that the First-tier Tribunal erred in attaching weight to the Second Appellant's lack of reference to the attempted rape of the First Appellant in her asylum interview as one of the reasons for an adverse credibility finding, when this had first been raised in 2013 by her and where her interview made repeated references to abuse. Fourthly and fifthly, that the First-tier Tribunal erred in not properly considering or attaching weight to the newspaper article or the letter from a friend in Pakistan as part of consideration of the claim in the round. Sixthly, that the First-tier Tribunal erred in making a factual error in relation to the First Appellant's claim of attempted rape and in particular, as to when others in the family were informed about this. Seventhly and finally, that the First-tier Tribunal erred in law in finding a contradiction between the evidence of the First and Second Appellants in relation to the uncle/brother-in-law's political connections and a contradiction in relation to the evidence given about the arranged marriage between cousins.

6. Permission to appeal was granted by Judge Osborne on 21 March 2019 on all grounds.
7. At the oral hearing, Mr Sarker on behalf of the Appellants relied on the written grounds of appeal and expanded upon them orally, by reference to the evidence before the First-tier Tribunal.
8. In relation to the first ground, Mr Sarker submitted that the First-tier Tribunal in paragraph 42 of the decision had misunderstood and taken out of context of the Appellants' claims to be under the control of their attended family members. They had not claimed that the level of control was such that they were not able to do anything or go anywhere, but that they were in an abusive and controlling situation whilst living within the family unit rather than being under constant surveillance. Further, the Appellants had the assistance of a friend to assist in organising the travel to the United Kingdom. It was further submitted that the financial situation of the family was taken out of context in paragraph 43 of the decision and the Appellants had given a clear explanation that they were able to finance the travel to the United Kingdom by the sale of family assets.
9. Also in relation to ground one, although Mr Sarker accepted that the evidence before the First-tier Tribunal in relation to the Appellant's father/husband's employment was inconsistent, being described differently as working in a motorcar/family car workshop and by himself as a machine operator in a factory; it was suggested that these were similar, did not identify any significant consistency in the evidence and the benefit of the doubt should have been given to the Appellants on this point.
10. In relation to the second ground two matters were relied upon about the claimed arranged marriage for the First Appellant and in relation to her

studying. Mr Sarker accepted on both points that there was an inconsistency in the evidence before the First-tier Tribunal, with submissions made on the Appellants' behalf in 2013 referring to a barter marriage and in the screening interview for the First Appellant which stated that she was a student in Pakistan. However, it was submitted that the wrong source of the evidence was identified in paragraphs 44 and 45 of the decision under appeal and that in any event the First-tier Tribunal should have preferred the Appellants' later evidence that supported their claims, albeit no explanation for the discrepancy or inconsistency had been given nor had any reasons been identified as to why the later account should be preferred.

11. Similar submissions were made in relation to the third ground of challenge, where it was accepted that the Second Appellant had not explicitly referred to any sexual abuse in her asylum interview, even though this had been raised initially in 2013 and that there was inconsistent evidence as to when family members knew of the attempted rape and why the Appellants' father/husband left the family home. Mr Sarker accepted the inconsistencies but submitted that the wrong source of evidence had again been identified by the First-tier Tribunal and the clarifications given by the Appellant in their evidence had not been properly considered.
12. In relation to the fourth and fifth grounds of challenge, Mr Sarker submitted that both the newspaper article and the letter from the family friend in Pakistan had not been properly considered by the First-tier Tribunal as part of the evidence in the round, although accepted that what was said about these documents in paragraphs 48 and 49 of the decision was correct and these grounds of appeal did not form a stand-alone challenge to the decision under appeal but as part of wider errors in the assessment of evidence.
13. In relation to ground seven, it was submitted that there was no inconsistent evidence as to the knowledge of the Appellants' father/husband's political links, neither of the Appellants were able to provide detail of this and were consistent about what they did know. This issue is relevant not only to risk, but more importantly to whether there is a sufficiency of protection and internal relocation available to the Appellants.
14. No separate submissions were made in relation to grounds six and eight on the basis that these points had been subsumed within the other grounds already.
15. On behalf of the Respondent, Mr Bramble made a number of general points in relation to the appeal. Specifically that the decision should be read as a whole, bearing in mind that the Judge of the First-tier Tribunal had the benefit of hearing oral evidence from both Appellants and made it clear in paragraph 39 that having assessed all of the evidence in the round, the appeals must be dismissed with adverse credibility findings.

made against both of the Appellants whose claims he found were “effectively riddled with significant and material inconsistencies.”. It was also of importance that there was no supporting evidence whatsoever from other family members in the United Kingdom as to the Appellants’ claims and no reason for their lack of support. Overall, it was submitted that the grounds of appeal amounted only to disagreement with the reasons for the decision and do not identify any errors of law.

16. In relation to the specific grounds, by reference to the evidence before the First-tier Tribunal, it was submitted that detailed findings were made, properly taking into account all the evidence, which were open to the Judge. There were numerous inconsistencies within the Appellants’ claims which were appropriately identified by the First-tier Tribunal. In relation to the points made as to the source of evidence relied upon by the Judge, Mr Bramble noted that in the index to the Respondent’s bundle submissions made on behalf of the Appellants in 2013 were referred to as statements and it may simply be that this description has been repeated in the decision of the First-tier Tribunal when referring to those documents which do contain the detailed matters relied upon.

Findings and reasons

17. In light of the nature of the grounds of challenge in this appeal, it is necessary for each ground to look in more detail at the findings of the First-tier Tribunal and the evidence before it on the particular point, albeit I consider these by theme rather than strictly by the grounds put forward by the Appellants within which there are overlapping issues.
18. The First-tier Tribunal set out its approach to consideration of the evidence and made general findings of adverse credibility against both Appellants in paragraphs 36 to 39 of the decision and relied specifically on the lack of any supporting evidence from the Appellants’ immediate family in the United Kingdom in paragraphs 40 and 41 of the decision. There is no challenge to the approach set out, nor to the significant omission of evidence from other immediate family members whom it is claimed were subject to the same or similar abuse in Pakistan as these Appellants. The Appellants grounds of challenge are to the specific findings in paragraphs 42 to 52 of the decision which provide reasons for the adverse credibility findings made, primarily by identification of significant inconsistencies in the Appellants’ evidence.
19. The issues of finance, control, education and work in Pakistan dealt with in paragraphs 42, 43 and 45 of the decision as follows:

“42. Equally, although I am asked to accept that the first appellant’s brother-in-law’s family were controlling and effectively kept the appellant’s family imprisoned at a family compound, it is clear that the family was able to organise travel to the United Kingdom, make applications through entry clearance officers, and book flights. I do not accept the first

appellant's claim that she would have been able to do this while out shopping or attending medical appointments if her brother-in-law's family was as controlling as is claimed. Even if she had been able to do this, those events are also inconsistent with the first appellant claims that the family were effectively placed under strict control by her relatives living in Pakistan.

43. In relation to the first appellant's claims, it was not accepted by the respondent that she had lived with the brother-in-law and his family. The first appellant had claimed that financial circumstances did not permit them renting a place of their own and had little means of income, but this is inconsistent with the account that she had been able to fund the trip to the United Kingdom for herself and her husband, and then finance tickets for the whole family. The first appellant also claimed her husband worked underpaid at her brother-in-law's motorcar workshop but this was again inconsistent with her husband's screening interview, where he claimed he worked as a machine operator in a factory. This evidence further damages the appellant's credibility.

...

45. Nor do I accept that the first appellant had been mistreated and controlled by the brother-in-law and his family. The first appellant claimed an interview that her daughters were educated in Pakistan, but then claimed on the asylum interview, at questions 30 and 31, that the brother-in-law would not allow the daughters to study. The first appellant had also claimed that she had paid for her family to travel to the United Kingdom in 2011 by selling gold and using savings, but then claimed in interview that her family was poor, weak, and afraid. They were often deprived of food. I find it is simply not a credible account that the first appellant has provided. The claims are materially inconsistent."

20. The findings in the paragraphs above disclose no error of law and contain findings which were reasonably open to the First-tier Tribunal on the evidence before it. The Appellants' claims in relation to the limited finances and controlling and abusive environment with extended family are unarguably inconsistent with the ability of the Second Appellant and her husband to travel to the United Kingdom in 2010 for a visit and then for the whole family of five to travel in 2011 with the incumbent organisation and expense required to do so. There is no misunderstanding or taking out of context the claims of control made by the Appellants, it is entirely lawful and reasonable to have concluded that the Appellants' claims are inconsistent on this basis.
21. In relation to the Appellants' father's/husband's work, it was accepted on behalf of the Appellants that there was an inconsistency between his own evidence of employment and that given by the Second Appellant and no

reason why any benefit of the doubt should be given to the Appellants on this point. The inconsistency has not been explained at all and therefore there is no basis upon which the Appellants' evidence should be accepted as opposed to the inconsistency itself being relied upon as one of many examples going to the credibility of the Appellants' claims.

22. It is the same case in relation to the First Appellant's education, there was clearly inconsistent evidence from the Appellants as to whether or not the First Appellant was educated in Pakistan, with answers within interviews being both that the extended family would not allow it, or that she did enter education but it was difficult. There is also evidence in the First Appellant's screening interview of education - when asked her occupation in Pakistan, it was stated that she was a student. This is not, as first suggested by the Appellants, a misunderstanding as to the First Appellant studying in the United Kingdom after arrival rather than in Pakistan and again, Mr Sarker, accepted the inconsistencies in the evidence. Again, there is no explanation for the inconsistency given by either of the Appellants and it is the inconsistency itself which is relied upon for the adverse credibility findings rather than the First-tier Tribunal preferring one account as opposed to the other.
23. The findings of the First-tier Tribunal in relation to the possible marriage between the First Appellant and one of her cousins is dealt with in paragraphs 44 and 51 of the decision as follows:

"44. Nor was it accepted that the first appellant's daughters were being forced to marry the brother-in-law's sons. In the first appellant's statement, she claimed that her daughters were engaged to their cousins in their childhood in a barter marriage which was arranged by the first appellant's husband and his brother. This claim is, I find, inconsistent with the claim in the asylum interview that the brother-in-law's family made a proposal in 2010 for the son to marry the second appellant.

...

51. The second appellant also claimed that there were arrangements in place to marry her cousin Anwar (witness statement page 2) but at questions 69 and 70 stated that an arranged marriage had not been set up."

24. Although there is reference in paragraph 44 to the First Appellant's statement, this is not a reference to the written statement produced for the purpose of the appeal hearing, but appears to be a somewhat inaccurate reference to submissions made on behalf of the Appellants by Wilsons Solicitors on 23 September 2013, in which it is clearly stated that two of the daughters were engaged to their cousins in their childhood in a barter marriage arranged between the husband and his brother. Even if the source is inaccurately described (which may in this case be because that letter was described by the Respondent in the index to the appeal bundle as a statement), there is no doubt that that contradictory evidence

about whether there was a barter marriage agreed in childhood or a marriage proposal in 2010 which was rejected, was before the First-tier Tribunal. It was suggested on behalf of the Appellants that the Judge did not properly take into account the Appellants' explanation, however there was no explanation as to the inconsistencies in the claim, nor any reason again why one version of the claim should have been preferred, to the Appellants' benefit, over another. It was the inconsistency itself which was appropriately relied upon by the First-tier Tribunal.

25. The issues are essentially the same in relation to the claimed attempted rape of the First Appellant and how/when other family members were informed of this, wherein the inconsistencies in the Appellants' claims set out by the First-tier Tribunal in paragraphs 46 and 50 were accepted by Mr Sarker, but it was in the alternative suggested that the wrong references to the evidence were cited and that clarifications made by the Appellants to the claim were not properly considered. At its highest, there is an inaccuracy in paragraph 50 by referring to the submissions made on the Appellants' behalf in 2013 by their Solicitors as a 'statement', but in substance there is no error of fact or failure to consider evidence before the First-tier Tribunal. This is also a further example of an inconsistency which has been entirely unexplained by the either Appellant and where the First-tier Tribunal is relying on the inconsistency itself rather than preferring one part of the account over another, without any basis being offered for one view being preferred.
26. The final issue in relation to consistency of the claims made is as to the Appellants' knowledge of their father's/husband's political links. The findings of the First-tier Tribunal on this point are at paragraphs 47 and 52 as follows:

"47. The first appellant also claimed the family had been unable to report the ill-treatment the police in Pakistan as the brother-in-law had political connections. She claimed he was connected with the Pakistan Muslim League but there is no supporting documentary evidence in relation to this claim.

...

52. Equally, I find that the second appellant has failed to provide credible evidence that her uncle was an influential person with political links. It is relevant that when asked as to how the second appellant knew her uncle had links to the police she was unable to provide any details other than to say that she saw him with the police when they visited the family home. In interview question 81, the second appellant stated that her parents had informed the children that uncle has links to very high ranking people including the police, but when her mother was asked about these matters in interview she had merely stated that she "did not know about these matters" and that the family simply stayed in their rooms."

27. The points relied upon as to this issue within the decision of the First-tier Tribunal are not in relation to inconsistencies in the accounts given by the Appellants, but rely on the lack of detail or evidence provided by either as to the wider families influence or political links. The Appellants' evidence on this can reasonably be described as thin and in certain respects, circular, relying on information from each other in circumstances where neither could provide any detail. Those findings were unarguably open to the First-tier Tribunal and the reasons contained therein have at best been misunderstood by the Appellants within the ground of appeal on this point.
28. The final two issues are in relation to the First-tier Tribunal's treatment of the newspaper article in relation to the family and the letter of support from a family friend in Pakistan, which are dealt with in paragraph 48 and 49 of the decision of the First-tier Tribunal. The newspaper article is a declaration of disassociation, containing three sentences stating that there is no contact between them and no responsibility for the Appellants or their immediate family will be undertaken. That is inconsistent, as found by the First-tier Tribunal, with the Appellants' claims that the article stated the family would be hunted down and at risk. However, no threats are made within it and it takes the Appellants' protection claim no further.
29. The letter from the family friend in Pakistan to the effect that the Appellants' extended family there are making threats also lends little weight or credibility to the claims made when all of the evidence is considered in the round. As acknowledged by Mr Sarker on behalf of the Appellants, this is not a standalone ground of appeal which of itself could amount to a material error of law. In any event, I find no error in the First-tier Tribunal's conclusions in relation to this particular piece of evidence.
30. For the reasons set out above, the First-tier Tribunal has not erred in law on any of the grounds of appeal relied upon by the Appellants. The decision is a well reasoned one, taking into account all of the evidence before it and reaching an entirely rational and lawful conclusion that neither Appellant was credible due to their claims being riddled with material inconsistencies and taking into account the complete lack of supporting evidence from immediate family members in the United Kingdom.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of a material error of law. As such it is not necessary to set aside the decision.

The decision to dismiss the appeals is therefore confirmed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed 
2019

Date 13th May

Upper Tribunal Judge Jackson