



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2021-001848

First-tier Tribunal No: HU/05042/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

**On 2<sup>nd</sup> of February 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BLACK**

**Between**

**MRS SYEDA FAHIMA RAHMAN**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Fazli, Counsel 12 Old Square Chambers

For the Respondent: Mr M Parvar, Senior Home Office presenting officer

**Heard at Field House on 24 January 2024**

**DECISION AND REASONS**

1. The appellant, born on 26 November 2001, a citizen of Bangladesh, appeals against a decision of FTJ K. Swinnerton (“the Judge”) dismissing her appeal on 6 April 2022 on human rights grounds based on family/private life. She applied under Appendix FM as the spouse of a British citizen.

2. The Judge relied on a previous decision and reasons (FTJ Beg) in which the appellant’s human rights appeal was dismissed in 2014 [27]. The Judge found that the appellant married her husband on 2 December 2017 and that they were in a genuine and subsisting relationship [22]. The Judge found that the financial requirements were not met as the evidence of the sponsor was not reliable and App FM-SE was not met in terms of specific documents. [23] The Judge found no credible evidence that the appellant faced any risk from her cousin in Bangladesh [25 -27]. The Judge was not satisfied that the appellant’s mother in law required care as claimed. There was no medical evidence produced which could easily have been obtained [29]. The Judge concluded that there were no insurmountable obstacles to family life continuing in

Bangladesh and no very significant obstacles to the appellant's reintegration [30-31]. There were no exceptional circumstances to engage Article 8.

### 3. Grounds of appeal

1) The Judge failed to consider evidence and/or failed to give weight to material evidence as to the appellant's husband's linguistic, cultural, employment and religious difficulties in Bangladesh [7], that the appellant had been absent for 10 years and the wider impact on the close knit family in the UK.

2) The Judge's consideration of Paragraph 276ADE (1)(vi) was inadequate. The Judge relied on her findings in respect of insurmountable obstacles which is a different test [31].

3) The Judge failed to consider exceptional circumstances under GEN 3.2 regarding the appellant's husband and mother in law. The findings made were inadequate.

4) The Judge failed to consider family life as between the appellant and her mother in law.

5) At [24] the Judge made findings as to the husband's employment which were insufficiently reasoned.

4. Permission to appeal was granted by UTJ Reeds who considered that Grounds 1 & 2 were arguable. It was open to the Judge to find that there was no medical evidence in support. Ground 5 amounted to a disagreement.

5. In submissions Mr Fazli relied on the material in the bundle of 127 pages and a supplementary bundle. He expanded on his detailed ground of appeal, and so I do not propose to set out his submissions herewith.

6. There was no Rule 24 Notice from the respondent. Mr Parvar submitted that there was no requirement for judges to note down all the evidence. The Judge considered the evidence regarding insurmountable obstacles. The evidence relating to the husband's difficulties did not make any material difference as the test was family life not the husband's ability to integrate. The Judge made sufficient findings to support her decision. As to ground 2 the findings made tied in with the insurmountable obstacles findings. If the Judge failed to apply the test it was not material. The Judge's findings as to "exceptionality " were sound as were her findings re the financial evidence and in any event immaterial given the failure to meet App FM-SE.

### Discussion and decision

7. This was a carefully written decision in which the Judge summarised the evidence given by the appellant and her 5 witnesses [7-13]. As regards the appellant's husband she recorded his evidence that they have a tightly knit family, the appellant takes care of his mother, the appellant would have difficulty integrating in Bangladesh and he faced language and cultural difficulties which would impact on his employment prospects [8]. It is clear that she was aware of the issues and relevant evidence. In addition she relied on the previous decision and reasons (FTJ Beg) in which it was found that the appellant's claim to be in fear of her cousin, who it was claimed was fixated on her, lacked credibility and was fabricated [26-27]. Further the appellant's later claim for asylum was dismissed [25]. The Judge found that the appellant and her husband entered into a relationship when the appellant's status was precarious [29] and that she had family (including her parents) in Bangladesh where she had spent the majority of her life. The Judge rejected the witnesses evidence as to the care requirements of the appellant's mother in law [28].

8. At [28] the Judge considers the evidence as to the medical conditions of the appellant's mother in law and her claimed care needs. The Judge rejects her claim to require daily care from the appellant because there was no supporting evidence from a GP or other medical source, which would not have been difficult to obtain. I take the view that the Judge reasonably found that medical evidence could have been provided to support the claimed medical conditions and care required given that it was claimed that in the absence of the appellant it would be necessary to employ professional carers. This was not a requirement for corroboration but that supporting evidence could reasonably have been obtained without much difficulty. The finding made is sound having regard to the evidence before the Tribunal.

9. Ground 1 contends that the Judge failed to take into account the evidence of the appellant's husband as to his linguistic, religious, cultural difficulties and their impact on his ability to obtain employment, when considering insurmountable obstacles to family life. I am satisfied that the Judge made clear and sustainable findings on the evidence before her. She was aware of the husband's evidence and that he was not fluent in Bangla. The focus of her findings was that the parties had entered into marriage in December 2017 at which time they were aware the appellant may be required to leave the UK given her precarious status. Further the appellant had her own family in Bangladesh, where the appellant had spent the majority of her life and she would be able to work. There was no independent evidence as to difficulties in securing employment in Bangladesh. Any findings or engagement with the husband's difficulties in my view would not materially alter the conclusion reached as to family life. The Judge took the view that the appellant and her husband would be able to continue their life together, there would be support from her family who were working and she was familiar with the country and culture, where she could obtain employment. In the context of those findings it was not incumbent on the Judge to engage further with the evidence of the appellant's husband. Further she placed weight on the fact that the parties entered into the relationship knowing there was no guarantee of residence in the UK.

10. In considering "very significant obstacles" the Judge simply relied on her previous findings as to insurmountable obstacles. Whilst accepting that these are two separate and distinct tests, there was some overlap of the facts and issues including the appellant having spent the majority of her life in Bangladesh where she has family and her and her husband's ability to work. It has not been argued that there is other significant evidence that the Judge has failed to take into account. The Judge found that the need for care for the appellant's mother in law was not supported. I am satisfied that the Judge did not confuse the two tests or treat them as the same. Ground 2 is not made out.

11. Ground 3 correctly specifies that it must be shown that there are unjustifiably harsh consequences for the appellant or other family on removal. The Judge referred to exceptional circumstances, but I am satisfied that this error is not material. Given the Judge's negative finding as to the mother in law's need for care, it cannot properly be argued that the Judge failed to take into account the impact on the appellant's mother in law. Similarly, the Judge found that there would be not insurmountable obstacles to family life in Bangladesh and to that extent considered there was no impact on the appellant's husband. Accordingly there was no justification for further consideration under Article 8.

12. It is clear from the decision that no consideration was given to the submission that there was family life as between the appellant and her mother in law. This however

does not amount to a material error in law given the Judge's findings as to the mother in law's need for care. Aside from the care aspect there was little by way of reliable evidence to show that the relationship was above and beyond the normal family ties between adults. It would be expected that family members provide some level of care for each other including carrying out daily tasks. The position taken by the Judge was that there was no supporting to establish on medical grounds the requirement for personal or daily living care. Ground 4 is not made out.

13. Ground 5 amounts to a disagreement with the Judge's view as to the reliability of the appellant's husband's evidence which she found to be inconsistent as to his finances and his explanation for any inconsistencies. In any event the Judge found that the specific evidential financial requirements were not met even if the threshold was met.

### **Notice of Decision**

14. The making of the decision of the First-tier Tribunal involved no error on a point of law. The decision shall stand.

**G A Black**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

31.1.24