



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

Appeal Number: AA061202015
AA016452015

THE IMMIGRATION ACTS

Heard at Stoke

On 11 March 2016

**Decision &
Promulgated**

On 24 May 2016

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

N H

Z H

(Anonymity Direction Made)

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Fletcher, Counsel instructed by Malik and Malik
Solicitors

For the Respondent: Mr Harrison, Senior Presenting Officer

DECISION AND REASONS

1. This matter comes before me pursuant to permission having been granted by Upper Tribunal Judge Perkins dated 2 October 2015. The appeal relates to a decision by First-tier Tribunal Andrew promulgated on 5 August 2015. The Judge dismissed the appeal against the Respondent's decision refusing the Appellants' applications for protection and on human rights grounds.
2. The background to the appeal is that the Appellants are sisters. They had arrived in the United Kingdom as minors with their father. The father's claim for asylum had failed. The Appellants' claim for asylum related to a fear of their stepmother who they claimed had links to the Police. It was said that the First Respondent would be forced into marriage by her and that both Appellants would be forced into prostitution.
3. The Judge dismissed the appeal, in effect, because there was a sufficiency of protection or that their father would provide them with assistance as he would be removed with them.
4. The real issue, as identified clearly by the grant of permission by Upper Tribunal Judge Perkins, is the tension at paragraph 22 of the Judge's decision where she said that the Appellants' father's health had deteriorated but that there was nothing in the medical evidence to suggest that the Appellants' father was so unwell as to mean he could no longer help the Appellants to safely relocate.
5. At the hearing before me Ms Fletcher referred to the grounds of appeal. She said that there had been medical evidence before the Judge. It was submitted that the Judge had considered the evidence and the impact on the father. The Appellants have nowhere to return to in Pakistan. The Police in Pakistan are corrupt. Paragraph 19 of the skeleton argument before the Judge was referred to. There was clear reference to it being unduly harsh for the Appellants to return as lone women or otherwise. The deterioration in the father's health has had a significant impact on why the Appellants cannot return to Pakistan. The family are struggling with the effects of the stroke.
6. Mr Harrison in his submissions said that he relied on the Rule 24 Reply. The Appellants' father's asylum claim had been refused. He was appeal rights exhausted on 5 March 2012 but he has not been removed to date. At the last hearing an assurance was given that they will be removed as a family should the daughters' claims be dismissed. At paragraph 23 the Judge had considered both sides in terms of the medical evidence. The Rule 24 is strident in its language.
7. I then heard further submissions from Ms Fletcher. I pointed out to the parties that there did not appear to be a final conclusion in respect of internal relocation in the decision. This was accepted to be so.
8. I had reserved my decision.

9. In my judgment there is a material error of law. The House of Lords decisions in **Secretary of State for the Home Department v AH (Sudan)** [2007] UKHL 49 and **Januzi and others v Secretary of State for the Home Department** [2006] UKHL 5 make it clear that the test for internal relocation is the consideration of whether it would be unduly harsh or unreasonable for there to be internal relocation.
10. Although it is not usually an error law for a Judge not to refer to either of these cases, the lack of reference to them in this instance, along with the lack of a clear final conclusion in respect of internal relocation shows a material error of law. The Judge did consider issues relating to the sufficiency of protection but that was not the answer to internal relocation issues.
11. When coupling that error with the fact that it would be the Appellants' father who would provide the protection to the Appellants on return to Pakistan with the medical ailments he appeared to have means that the decision cannot stand.
12. In the circumstances I conclude that the matter has to be reheard. None of the findings from the Judge's decision relating to the Protection claim shall stand. The only grounds of appeal by the Appellants related to the protection claim so that is what will be reheard.

Notice of Decision

The decision of the First tier Tribunal Judge involved the making of a material error of law.

The Appellant's appeal is remitted to be reheard at the First Tier Tribunal.

An anonymity direction is made because the appeal relates to asylum.

Signed

Date: 11 April 2016

Deputy Upper Tribunal Judge Mahmood