



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: AA/08590/2015
AA/08591/2015
AA/08593/2015
AA/08595/2015

THE IMMIGRATION ACTS

Heard at : Field House
On : 29 January 2018

Decision & Reasons Promulgated
On: 30 January 2018

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

SA
KI
JS
KS

(ANONYMITY ORDER MADE)

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr E Fripp, instructed by Pegasus Solicitors
For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellants appeal, with permission, against the decision of the First-tier Tribunal dismissing their appeals against the respondent's decision refusing their asylum and human rights claim.

2. The appellants, nationals of Pakistan, are wife, husband and their two children, born respectively on [] 1978, [] 1979, [] 2011 and [] 2014. The first two appellants arrived in the UK on 13 March 2011 as a Tier 4 Student Migrant and a Tier 4 Dependant Migrant, with leave to enter until 6 July 2012. The first appellant applied for leave to remain as a Tier 2 General Migrant but her application was refused. She did not pursue an appeal against that decision and became appeal rights exhausted on 29 November 2012 and overstayed. On 18 November 2013 she was served with papers as an overstayer. On 11 February 2014 she made an Article 8 human rights claim, but that was refused.

3. On 11 December 2014 the first appellant applied for asylum, with the other three appellants as her dependants. The asylum claim was refused on 19 May 2015 and the appellants appealed against that decision. The appeals were heard in the First-tier Tribunal and dismissed. Permission to appeal to the Upper Tribunal was granted on 4 December 2017.

The Appellant's Case

4. The first appellant ("the appellant") claims that she was engaged to be married to her cousin in order to settle an eight year family feud but she did not want the marriage and after four years she called off the engagement. Two to two and a half years prior to that she started an affair with her current husband and one year prior to the engagement being called off her fiancé found out about the affair. A year and a half to two years after the engagement was called off, her husband persuaded his mother to let him marry her and her parents agreed to the marriage. They were married in June 2008 and went to live with her husband's family. Her mother-in-law mistreated her and made her do all the housework. In 2009 she fell pregnant and had an illegal abortion as she could not cope with the pregnancy. Her mother found out about the abortion as she had to go hospital. She subsequently fell pregnant again but had a miscarriage and on that occasion, in 2010, her mother-in-law found out about the previous abortion. The appellant claimed that her husband's family wanted him to marry again but he did not want to leave her. She fell pregnant again and her husband's friend suggested that they leave Pakistan to get away from the problems. She feared that her life would be at risk if she returned to Pakistan.

5. The respondent, in refusing the appellant's claim, noted that the appellant's documentary evidence referred to two miscarriages rather than an abortion and miscarriage. The respondent considered the medical evidence produced from Pakistan but accorded it little weight. The respondent considered that the appellant's credibility was undermined by the fact that she had provided misleading information to the Home Office and had been willing to employ deception to remain in the UK in respect of her application for leave to remain as a Tier 2 general migrant. In the circumstances the respondent did not accept the appellant's claim to have been mistreated by her in-laws and to have undergone an illegal abortion. The respondent considered in any event that

there was a sufficiency of protection available to the appellant and that she could also safely and reasonably relocate with her family to another part of Pakistan.

6. The appellants' appeal against that decision was heard by First-tier Tribunal Judge Goodrich on 15 February 2016 and 26 April 2016 and was dismissed in a decision promulgated on 6 June 2016. The appellant and her husband gave evidence before the judge. The appellant claimed in her evidence that she had not employed deception in regard to her Tier 2 application but was the victim of the agent who had claimed to have an in-depth knowledge of the immigration laws. She had believed that the work permit for which the agent had applied was legitimate and that she would have to undertake only a short course of study to obtain the required MBA qualification. She would be imprisoned in Pakistan as a result of having had an illegal abortion. She also feared being the victim of an honour killing and could not live safely anywhere in Pakistan.

7. The judge noted that the appellant, in her previous application for leave to remain on private life grounds in early 2014, had given a different reason for leaving Pakistan, namely that her and her husband were subjected to caste discrimination, that they were from different castes, that their wedding took place without their families knowing and that when the families found out they were disowned. The judge considered that the claim in regard to caste differences was inconsistent with evidence that the appellant's mother and mother-in-law were in fact sisters. The judge noted that the appellant's evidence as to whether or not her parents and her in-laws consented to their marriage varied in her different accounts. The judge also noted the absence of any mention in that application to the circumstances of the claim now relied upon. The judge also noted evidence confirming that the appellant had had two miscarriages and that the accounts given by the appellant and her husband about the claimed illegal abortion were inconsistent. The judge did not accept the appellant's explanation as to her lack of knowledge in regard to the Tier 2 application and considered that she had attended an MBA course for two weeks solely in order to assist her in remaining in the UK. She did not accept the reasons given by the appellant for ceasing her studies in March 2012, namely that her daughter [JS] was ill, as the evidence showed that [JS] had been well for some time since her discharge from hospital in October 2011. The judge considered that the appellant's delay in claiming asylum undermined her credibility. The judge did not find the appellant and her husband to be reliable and credible witnesses and rejected her claim, considering that it had been fabricated in order to enable her to stay in the UK. The judge considered that the appellants would be at no risk on return to Pakistan and that their removal would not breach their human rights on Articles 2, 3 or 8 grounds.

8. The appellant sought permission to appeal Judge Goodrich's decision, over a year out of time, on the following three grounds: Firstly, that there were mistakes of fact in the decision and a failure to consider all relevant evidence. The judge, when rejecting the appellant's explanation for ceasing her studies, failed to take account of a letter from the appellant's GP in regard to her daughter's illness, failed to take account of the appellant's full explanation for undergoing an abortion, failed to take account of references in the appellant's current claim to caste differences and failed to consider the appellant's explanation as to why her husband's family did not report the illegal abortion to the

police. Secondly, that the judge failed adequately to consider the appellant's explanation for her delay in claiming asylum. Thirdly, that the judge's findings on internal relocation failed adequately to take into account the country evidence.

9. Permission to appeal was granted to appeal to the Upper Tribunal, with time being extended, on all grounds, but primarily on the basis that the judge had arguably erred in fact, in making an adverse credibility finding based upon the appellant's daughter's health which was arguably against the medical evidence.

Appeal hearing and submissions

10. The appeal came before me on 29 January 2018. Both parties made submissions.

11. Mr Fripp submitted that the judge's credibility findings were flawed as they failed to take account of the medical letter relating to the appellant's disabled daughter at page 183 of the appeal bundle and failed to take account of the evidence regarding domestic violence from the appellant's mother-in-law. The judge erred at [31] in finding that the appellant's claim had changed, whereas it had just developed. The appellant had mentioned caste differences in her current claim at questions 107 to 112 of her interview and it was clear that the current circumstances were simply a continuation of those previously stated. The appellant had not changed her account of the earlier abortion but had simply been reticent to mention it subsequently.

12. Mr Tarlow submitted that the appellant's grounds were simply a disagreement with the judge's validly made findings and any error in regard to the doctor's letter was not material.

Consideration and findings.

13. I am entirely in agreement with Mr Tarlow that the grounds and submissions were little more than a disagreement with the judge's findings. The judge's decision is a very detailed and careful one and it is clear that the judge had full regard to all the evidence in making her findings and gave clear and cogent reasons for making the adverse credibility findings that she did.

14. It was Mr Fripp's submission that the judge had erred in finding at [31] that the information provided by the appellant for her various applications had changed and that it was simply a matter of her claim having developed. However the judge was perfectly entitled to consider that the appellant had provided, in her current claim, a different account of her reasons for not being able to return to Pakistan to that previously given in her previous Article 8 human rights claim in January 2014. The differences in the appellant's accounts were explained in detail by the judge at [31(d)] and thereafter. Mr Fripp submitted that the judge had ignored the fact that the appellant had mentioned caste differences in her interview for her current claim and was thus developing the account previously given, but it seems to me that the judge plainly had regard to the appellant's

evidence about caste differences at the interview, noting at [31(d)] that that was not, however, the core basis on which the claim was now being pursued.

15. With regard to the appellant's account of having undergone an illegal abortion and the fact that that was mentioned for the first time only at the screening interview, Mr Fripp submitted that the judge had failed to consider that people may be reticent to talk about such matters and ought to have been sensitive to the appellant in that regard. The grounds, at [21] and [22] also criticise the judge's adverse credibility findings at [38(b)] in regard to the abortion and assert that there was a failure to consider the appellant's evidence about being a victim of domestic violence which provided the context for the abortion. However it is clear that the judge considered all the evidence about the claimed abortion in the round and was entitled to make the adverse findings that she did. The judge plainly did take into account the appellant's explanation about her in-law's mistreatment at [38(b)] but rejected it in light of the various other reasons given at [38] for considering that the claim was not credible, in particular the inconsistent evidence noted at [38(d)] and the fact that the account of the abortion differed significantly to the evidence previously given that she had had two miscarriages. It seems to me that the judge's adverse findings in regard to the abortion took account of all the evidence and were plainly fully and cogently reasoned and entirely open to the judge on the evidence before her.

16. The main basis upon which permission was granted was the judge's alleged failure to take into account a medical letter dated 5 February 2013 which it was asserted contradicted the judge's findings at [43] in relation to the genuineness of the appellant's studies, her reasons for ceasing her studies and the credibility of her reasons in general for applying for leave to remain in the UK. The judge considered at [43] that the appellant had not provided a genuine reason for discontinuing her studies in March 2012 and that the reason she had given, namely her daughter's illness, was contradicted by the medical evidence which confirmed that her daughter had been discharged from hospital in October 2011 and had been well since then. The grounds assert that the doctor's letter of 15 February 2013, at page 183 of the appeal bundle, confirmed that the appellant's daughter had not been well since October 2011. However the judge took all of the evidence into account and I do not accept that she overlooked that letter or that the letter in any event undermines the judge's findings in any respect. The letter confirms the appellant's daughter's life threatening condition which caused her to be admitted to hospital, but the judge was plainly fully aware of that, as is seen from her detailed assessment of the medical evidence at [64]. The letter takes the matter no further, stating simply that the appellant's daughter was unwell in January and February 2013, but providing no further details nor suggesting in any way that that was related to her illness in October 2011. I fail to see how that undermined the judge's finding at [43] rejecting the appellant's explanation for ceasing her studies in March 2012. It seems to me that the judge was perfectly entitled to make the adverse findings that she did in that regard and in regard to the appellant's immigration history and her motivation in making the various applications that she did.

17. Accordingly I find no merit in the assertion in the grounds that the judge failed to consider relevant matters or that she made mistakes of fact. The judge provided clear and cogent reasons for making the adverse credibility findings that she did. She was entitled to draw adverse conclusions from the inconsistencies in the appellant's evidence, the different reasons she had provided for wishing to remain in the UK and being unable to return to Pakistan, and from the significant delay in her claim for asylum and the circumstances under which she made that claim. The judge was perfectly entitled to find that the appellant's claim was not a genuine and credible one and to conclude that neither she nor her husband or child were at any risk on return to Pakistan. Mr Fripp, quite properly, did not make submissions on the grounds asserting a failure to consider country evidence and referring to internal relocation. The judge in fact had full and extensive regard to the country evidence and provided cogent reasons for concluding that internal relocation was an option reasonably open to the appellant, but in any event those matters are immaterial in light of the adverse findings made.


18. For all of these reasons I conclude that the judge was perfectly entitled to reach the conclusions that she did on the evidence before her for the reasons fully and properly given. The grounds of appeal do not disclose any errors of law in the judge's decision.

DECISION

19. The appellants' appeals are accordingly dismissed. The making of the decision of the First-tier Tribunal did not involve an error on a point of law, such that the decision has to be set aside. I do not set aside the decision. The decision to dismiss the appellants' appeals therefore stands.

Anonymity

The First-tier Tribunal made an order for anonymity. I maintain that order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed 
Upper Tribunal Judge Kebede

Date: 29 January 2018