



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: PA/02108/2017
PA/02109/2017
PA/02112/2017

THE IMMIGRATION ACTS

Heard at Field House
On 17 April 2018

Decision & Reasons Promulgated
On 14 June 2018

Before

DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL

Between

N B (FIRST APPELLANT)
M R M (SECOND APPELLANT)
R R (THIRD APPELLANT)
(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Maksud, Legal Representative
For the Respondent: Mr McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The decision under challenge in this case is that of Judge Davies of the First-tier Tribunal (FtT) posted on 2 August 2017 dismissing the appeal of the first appellant, a

national of Pakistan, against the decision made by the respondent on 10 February 2017 refusing her protection claim.

2. The written grounds are poorly presented but allege that the judge erred in unduly relying when rejecting credibility on only one inconsistency; in failing to focus on the key issue which was that the first appellant had an illegitimate child; in giving no reasons for rejecting the first appellant's claim that her family threatened her; in failing to refer to any objective evidence when rejecting the first appellant's claim that her family was politically influential; in failing to consider reasonableness when deciding the issue of internal relocation; in wrongly counting against the first appellant that she had delayed claiming asylum; in not addressing humanitarian protection; in not addressing the issue of a particular social group; and in giving inadequate reasons. The grounds also criticise shortcomings in the judge's treatment of the appellant's Article 8 grounds of appeal and complain that the judge should have considered the best interests of the child.
3. I heard submissions from both representatives. Mr McVeety said he accepted there were major flaws in the decision.
4. I find myself in agreement with both representatives. The judge's treatment of both the protection and Article 8 aspects of the first appellant's claim is seriously deficient. The judge's adverse credibility findings provide only one reason, namely that the first appellant "has not dealt with the inconsistencies in her evidence as to how her parents discovered her pregnancy". Even assuming that is correct, the judge nowhere explains why inconsistencies on this issue were to be regarded as determinative of her general credibility or whether her account failed or did not fail in other respects - as regards external consistency, sufficiency of detail or plausibility. At paragraph 36 the judge states that "I do not believe that the Appellant's family made threats she claims to her and her partner and child", but gives no reasons. At paragraph 37 the judge states that the first appellant had not produced any credible evidence to indicate that her family are politically active without explaining why the evidence the first appellant gave was not credible.
5. As regards Article 8, the judge at paragraph 31 rejected the first appellant's Article 8 claim on the basis "she will be returned with her partner and child" without any analysis of relevant issues such as whether there would or would not be insurmountable obstacles.
6. There was no representation from the Home Office and the appellants were not represented. Despite the judge stating at 29 that he "went through the contents of the refusal letter with [the first appellant] so she fully understood the basis of the Respondent's decision", there is nothing to indicate that the judge asked her to explain the inconsistencies and implausibilities in her evidence identified in the respondent's refusal letter.

7. For the above reasons I consider that the judge's findings are vitiated by legal error. I am bound to say that I have real doubts that the first appellant can overcome some of the difficulties with her account as identified by the respondent (in particular I struggle to see why if the couple married in the UK in a Muslim ceremony or civil ceremony or in Pakistan that their child would be classed as illegitimate, given provisions for retrospective legitimation), but I consider she is entitled to a fresh hearing at which she is legally represented and at which either through cross-examination or otherwise, she is afforded a proper opportunity to respond to the respondent's reasons for refusing her protection and human rights claims.
8. To summarise:

The decision of the FtT judge is set aside for a material error of law.

The case is remitted to the FtT (not before Judge Davies).

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:

Date: 12 June 2018



Dr H H Storey
Judge of the Upper Tribunal