



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

Appeal Number: PA/00201/2018

**THE IMMIGRATION ACTS**

**Heard at Newport  
On 25 January 2019**

**Decision & Reasons  
Promulgated  
On 20 February 2019**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MISS H S  
(ANONYMITY DIRECTION MADE)**

Claimant/Respondent

**Representation:**

For the Appellant: Mr S Clarke, Counsel instructed by the Home Office  
Presenting Officer  
For the Claimant/Respondent: Mr C Howells, Migrant Legal Project (Cardiff)

**DECISION AND DIRECTIONS**

1. The appellant, the Secretary of State (hereafter the SSHD) has permission to challenge the decision of Judge Walker of the First-tier Tribunal (FtT) sent on 25 September 2018 allowing the appeal of the respondent (hereafter the claimant) on protection grounds.
2. The SSHD's grounds allege that the judge erred in law in failing to take into account the fact that the claimant had remarried following her divorce from her first husband. It was stated that this error led the judge to assess

risk to the claimant on a false basis, namely as a lone woman lacking a husband able to provide protection and financial support.

3. I heard submissions from both representatives.
4. I have no hesitation in concluding that the judge erred in law. On the claimant's own evidence she had been divorced from her first husband since March 2013 and had remarried on 11 December 2016.
5. The judge found the claimant's account credible. At paragraph 71 the judge referred to the guidance given in the UT case **SM (lone woman - ostracism)** CG [2016] UKUT 67 (IAC) February 2016. At paragraphs 72-75 he referred to other sources identifying difficulties facing lone women. At paragraph 76 he referred to the expert report by Mrs Uzma Moeen which concluded that the police would not be able to protect her against her first husband's family who would be highly motivated to track her down. At paragraphs 77-8 the judge stated:

“77. The appellant will not have anyone to support her in Pakistan which will make her more than usually vulnerable and her fragile mental health will add to her vulnerability. The availability of shelters is extremely limited and not suitable as described in the COIR. She will be an easy target. As a single woman living alone she would be the subject of constant comment and scrutiny and that will enhance the risk to her of her family finding her. I am satisfied by what I have heard and the objective evidence that I have read that the appellant will be the subject of an honour killing or very violent assault if she were to be returned to Pakistan and that she will not be able to obtain the necessary protection from the state authorities. Her fragile mental health also enhances her vulnerability. The fact that she has previously worked in Pakistan and has some educational achievement will not in my view allow her to set herself as an independent woman and again in reaching that conclusion I take into account her mental health and the extreme fear that she has of living in Pakistan. I consider that her fear is well founded.

78. Given my findings above it follows that I find that the Appellant has discharged the burden of proof of having a well-founded fear of persecution and that is sufficient to dispose of the appellant's case.”

6. From the above it is plain that the judge's assessment of the claimant's case was heavily focused on her likely plight as a lone woman. However, given the judge's finding that the claimant had a second husband, it was incumbent on him to consider whether the fact of this relationship would mean that she would not be in the position of having to return to Pakistan alone.
7. Mr Clarke submitted that the claimant had given written and oral evidence to show that her second husband was a vulnerable person with his own

mental health problems and that the country guidance and background evidence before the judge identified risks to women in Pakistan, not just lone women. He submitted that even if the claimant were to be accompanied on return by her second husband, the degree and extent of her and his vulnerability would be sufficient to sustain the finding on insufficiency of protection and internal relocation. The SSHD's grounds were, therefore, speculative.

8. I cannot agree with this submission. Plainly the judge failed to engage with the likelihood or otherwise of whether the claimant's second husband would (or could) accompany her and it cannot be excluded that if he had engaged with this issue he would have reached a different conclusion. It was not a case where this issue could not have had a possible effect on outcome. Accordingly I set aside the decision of the judge for material error of law.
9. It is unavoidable that the case should be remitted to the FtT. I discussed with the parties what should be the basis of the remittal. They agreed with me that I should direct that the judge's positive credibility findings on the claimant and her account should stand. There will remain, however, a significant degree of fact-finding to be made by the FtT judge concerning:
  - (1) whether (if it is found her second husband can accompany her to Pakistan) his presence would mean she would have sufficiency of protection in Lahore;
  - (2) even if it is found she would not, whether she could achieve a viable internal relocation together with her husband, i.e. one that is both safe and reasonable.

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

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

Signed

Date: 14 February 2019



Dr H H Storey  
Judge of the Upper Tribunal