



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number HU/01419/2020 (V)**

THE IMMIGRATION ACTS

**Heard by *Skype for Business*
On 7 April 2021**

**Decision & Reasons Promulgated
On 23 April 2021**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

GURPREET KAUR

Respondent

For the Appellant: Mr A Caskie, Advocate, instructed by Duheric and Co,
Solicitors

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this decision refers to them as they were in the FtT.
2. The SSHD appeals, on three grounds, against the decision of FtT Judge Prudham, promulgated on 29 October 2020, allowing the appellant's appeal under article 3 of the ECHR.
3. The first ground, "making a material misdirection of law", points out (i) that the appellant applied to the SSHD on article 8 grounds, not article 3

and (ii) that she stated to an expert preparing a report that she would return to India to visit her husband if she had leave to return to the UK. This is said to be “indicative of the true position”.

4. It is not at all clear what error of law this ground seeks to allege.
5. Mr Bates clarified that there was no suggestion of error through permitting the appellant to raise a “new matter” (a misconception which appears to have triggered the grant of permission).
6. Mr Caskie referred to the history of the case in the FtT, prior to the hearing, placing it on article 3 grounds, without objection from the SSHD.
7. The appellant’s statement to the expert was a point the SSHD was entitled to found upon in the FtT, but Mr Bates did not suggest that it was one by which it would be perverse to do anything but to dismiss the appeal.
8. Ground 1 leads nowhere.
9. Mr Bates submitted that grounds 2 and 3, taken together, disclosed inadequacy of reasoning. Mr Caskie submitted that even if the decision might have been better expressed, and even if it might have gone either way, the conclusion reached was within the judge’s lawful scope, and involved no error on any point of law.
10. I reserved my decision.
11. The grounds say that the finding that the appellant’s activities in the UK place her at risk is “in complete contradiction” of her expert report, which says that a high profile reduces the risk of abuse, and that the “current administration has a leniency towards Sikhs”.
12. These are simply matters of fact and degree. This part of the grounds re-argues a possible view of the case, but does not show that an alternative view is wrong in law.
13. The thrust of the next part of the grounds is that as there had been prior discussion of the case of the appellant’s husband between the Prime Ministers of the UK and India, and prior contact between the family and the UK government, her later meeting with the Foreign Secretary could not place her at risk, when the Indian authorities had not previously acted against her.
14. Again, this is not more than insistence on one view of the evidence. The aspects referred to were accepted by the appellant, as the judge noted at [43].
15. The final point in the grounds is the partiality of the expert report, and that it was an error “to place such heavy reliance upon it”, which “renders the determination as a whole unsound”.

16. This mispresents what the decision says. At [45] the judge found the report speculative, insufficient to make the appellant's case, and viewed it "in the light of the evidence of Mr Singh Johal [the appellant's brother-in-law], the appellant, and the general background of events that led to this appeal".
17. The judge found both the appellant and Mr Singh Johal to be credible witnesses. The SSHD suggests no error in that.
18. The grounds disagree on the facts, but they are both selective and, to an extent, misleading.
19. The case may have succeeded by a narrow margin. As was effectively conceded, it is quite possible that another judge might have decided otherwise. However, the conclusion reached was within reason, and the SSHD has not shown that the decision, read fairly and as a whole, gives a less than legally adequate explanation for coming down on the side it did.
20. The decision of the First-tier Tribunal shall stand.
21. No anonymity direction has been requested or made.

Hugh Macleman

13 April 2021
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A **"working day"** means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.