



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

**Appeal Number: PA/01495/2019
[UI-2021-000957]**

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On the 25 February 2022**

**Decision & Reasons Promulgated
On the 12 April 2022**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**TAB
(Anonymity Order made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel, instructed by Shawstone Associates Solicitors

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

DECISION AND REASONS

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

2. The appellant is a citizen of Ethiopia, born on 21 December 1982. She arrived in the UK on 21 August 2018 on a flight from Dubai, with a visa for the UK as a domestic worker. She claimed asylum on 4 October 2018. Her asylum claim was refused on 5 February 2019 and she appealed against that decision.

In the meantime, she was referred to the Single Competent Authority in relation to her domestic work and was found, in a Conclusive Grounds decision on 23 March 2021, to be a victim of modern slavery. However she was not granted discretionary leave on that basis and her appeal against the refusal of her asylum claim was dismissed on 8 September 2021.

3. The appellant claims to be an Oromo from Hawasa, Ethiopia, and to be at risk on return to Ethiopia as a result of her political activities with the Oromo movement. A summary of her asylum claim, as set out in the respondent's refusal decision, is that her father was killed seven years previously for being a member of the Oromo Liberation Front (OLF) and her café was subsequently destroyed, either because she supported her father or because the café was frequented by Oromo students who bought tea and coffee there. The appellant claimed that she was arrested by the Ethiopian authorities on 2 February 2015 because it was believed that students were holding political activities in her café and she was detained for 15 days and tortured. In June 2015 she moved to Dubai to work as a domestic worker with a family there and she returned to Ethiopia in September 2017 for a holiday. Whilst in Ethiopia, she attended an OLF meeting in a hotel/ house that was raided and she fled to Dubai, returning to her job there as a domestic worker.

4. The respondent refused the appellant's claim, rejecting her account of being an active supporter of the OLF and of her business being destroyed because of her affiliation to the OLF. In doing so, the respondent identified various inconsistencies in the appellant's account. The respondent noted that the appellant had referred to herself in her screening interview as of Amhara, not Oromo, ethnicity, that she spoke Amharic and Arabic but not Oromo and that she had stated at the interview that she had no involvement with any political organisations. The respondent also noted that the appellant had provided different reasons for supporting the OLF, she did not know the political aims of the OLF and she gave an inconsistent account of financial support for the OLF. The respondent noted that the appellant had not been prevented from leaving Ethiopia in June 2015 or in 2017 and was able to leave and return to Ethiopia without problems, which was considered to be inconsistent with her claim to have been targeted by the authorities. The appellant also gave inconsistent evidence about where she was in October 2017 when the authorities raided the meeting. The respondent did not accept that the appellant had a genuine fear of returning to Ethiopia and concluded that she would not be at any risk on return. It was considered that her removal from the UK would not breach her human rights.

5. In the decision of 29 April 2021 refusing the appellant discretionary leave to remain, following the positive conclusive grounds decision relating to the issue of slavery, the respondent considered that it was not necessary to grant discretionary leave to the appellant, concluding that there was no risk of her being re-trafficked or becoming the victim of modern slavery again if she were to return to Ethiopia

6. The appellant's appeal against the respondent's decision refusing her asylum claim was heard by First-tier Tribunal Judge Garratt on 19 August 2021. Judge Garratt was not satisfied that the significant inconsistencies in the appellant's account, to which the respondent had referred in the refusal decision, had been adequately explained. He was not satisfied that the appellant's mental health, as referred to in a psychiatric report from Dr Lodhi which had been submitted, provided an explanation for those inconsistencies. The judge referred to a summons which the appellant had produced for the hearing, which was said to have been received by her mother on 27 October 2017 for her to report to the police in Addis Ababa in relation to her (the appellant's) involvement with the OLF, and to the appellant's claim that her mother was arrested in November 2017 when she failed to attend. He referred also to an expert report from Professor Mario Aguilar in relation to the summons and considered that the summons was not a reliable document. The judge did not accept that the appellant had provided a credible account and he concluded that she would not be at any risk on return to Ethiopia and that her removal would not breach her human rights. He accordingly dismissed the appeal on all grounds.

7. Permission was sought on behalf of the appellant to appeal the decision to the Upper Tribunal on three grounds. Firstly, that the judge had erred by failing to make any findings regarding the risk to the appellant in Ethiopia, as a former victim of modern slavery or trafficking, of being re-trafficked; secondly, that the judge had failed to consider the impact of the appellant's mental health on her recollection of her experiences at the time of her screening interview and had failed to consider that she had clarified matters subsequent to her screening interview in further written representations; and thirdly, that the judge had failed properly to consider the expert report of Professor Aguilar in relation to the summons.

8. Following the grant of permission to appeal to the Upper Tribunal, the matter came before me. Both parties made submissions, with Ms Patel relying and expanding upon the grounds and Mr Bates providing a response.

Discussion and conclusions

9. As Ms Patel pointed out, the grant of permission was made with specific reference to the third ground, but the actual order granting permission did not exclude the first and second grounds and, as such, all grounds could be argued. However I am in agreement with Mr Bates that the decision granting permission was reflective of the entire lack of merit in the first two grounds, a view which I fully endorse.

10. With regard to the first ground criticising Judge Garratt for failing to make findings on the risk to the appellant in Ethiopia of being of re-trafficked, I enquired of Ms Patel where was the support for her submission that such a claim was ever made by the appellant. Ms Patel agreed that no skeleton argument had been produced for the hearing before Judge Garratt but she advised me that the matter was raised as an issue for the appeal, at the

previous case management review hearings. I do not have the notes of those hearings before me but it seems to me that the most significant observation is that none of the appellant's three statements raise any suggestion that she had a subjective fear on such a basis or that the matter formed part of her case and neither was there such a suggestion in her interviews or in the written representations following the interviews. In addition, the conclusive grounds decision minutes refer only to the question of the appellant's recruitment from Dubai and the problems she experienced there after returning from Ethiopia in October 2017. Further, the Competent Authority decision of 23 March 2021 makes it clear that a positive decision was reached only with regard to exploitation in Dubai, as was the point made before the judge by the Home Office Presenting Officer in his submissions, recorded at [22]. As Mr Bates submitted, the appellant only ever claimed to have problems with her employers after she returned to Dubai from Ethiopia, having already worked for her employer for two years without problems and it was therefore hardly surprising that the judge did not deal with the issue as a risk factor relied upon by the appellant.

11. In the circumstances, it seems to me that, in so far as Judge Garratt referred to the trafficking issue, as he did at various points in his decision, it is clear that he considered the matter to have been raised by the appellant in the context of the impact of it on her mental health and thus upon her evidence relating to the OLF and that the reason why he made no specific finding on the risk of the appellant being re-trafficked from Ethiopia was no doubt because he did not consider or assume it to be a matter forming part of her case. Irrespective of the reference by Ms Patel to re-trafficking, in her submission before Judge Garratt (at [26]), the judge would be perfectly justified in making such an assumption, but in any event could not be criticised for making no specific finding on the matter, when considering the evidence, or lack thereof, from the appellant herself. The first ground of appeal is therefore without any merit.

12. Likewise there is no merit in the second ground, which asserts that the judge failed to consider the impact of the appellant's mental health on her evidence at the time of her screening interview. On the contrary that was a matter which the judge considered in detail, in particular at [34] to [36]. It is clear that he had full regard not only to the appellant's evidence at the screening interview but also to the amendments which were made by her representatives subsequent to the interview. He was fully entitled to consider it significant that the appellant had given a different account of her ethnicity, amongst various other inconsistencies in her evidence, and to reject the assertion that her mental health impacted upon her evidence in that regard. There can be no doubt from his findings that the judge carefully assessed the appellant's evidence in the light of the psychiatric report and I reject entirely the suggestion made by Ms Patel that the judge considered the medical evidence after drawing adverse conclusions from the inconsistencies in the appellant's evidence. The judge plainly considered all the evidence in the round and provided cogent reasons for concluding that the appellant had not provided a credible account of her activities and experiences in Ethiopia. As Mr

Bates submitted, it is of note that Professor Aguilar was not asked by the appellant to address her ethnicity and the judge was perfectly entitled to reach the adverse conclusion that he did from the evidence before him.

13. The third ground is similarly lacking in any merit and is simply a disagreement with the limited weight the judge attached to the report of Professor Aguilar in relation to the authenticity of the summons relied upon by the appellant. The report was quite properly found by the judge to be lacking in evidential value. As the judge noted, the report was based upon an opinion from a colleague of Professor Aguilar with very limited information about him and his expertise. For the reasons properly given, the judge was perfectly entitled to conclude that the report could not be said to be based upon an appropriate investigation of the document in question. Little more needs to be said given the unsatisfactory nature of the report and I fully endorse the judge's reasoning at [38].

14. For all of these reasons I find no merit in the grounds. The judge's adverse findings and conclusions were based upon a careful assessment of the appellant's evidence against the medical and other evidence and were fully and cogently reasoned. The decision is one which was fully and properly open to him on the evidence before him. I do not find any errors of law in the judge's decision requiring it to be set aside and I accordingly uphold his decision.

DECISION

15. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Signed: S Kebede
2022
Upper Tribunal Judge Kebede

Dated: 28 February