



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

Appeal Number: AA/00650/2015

THE IMMIGRATION ACTS

**Heard at Newport
On 5 July 2016**

**Determination Promulgated
On 7 July 2016**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

**KB
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Hodgetts instructed by South West Law

For the Respondent: Mr I Richards, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The anonymity order imposed in my decision promulgated on 8 April 2016 prohibiting the identification directly or indirectly of the appellant or her son remains in force.

Introduction

2. The appellant is a citizen of Pakistan who was born on 16 September 1982. She last came to the UK on 6 August 2012 as a visitor with leave valid until 18 January 2013. Whilst in the UK, her son, M was born on 22 October 2012.
3. On 17 May 2013, the appellant claimed asylum. The basis of her claim was that she was at risk of domestic violence from her husband in Pakistan and feared that he would injure or kill her.
4. On 17 December 2014, the Secretary of State refused the appellant's claim for asylum and humanitarian protection and for leave under Article 8 of the ECHR. On 18 December 2014, the Secretary of State made a decision to remove the appellant to Pakistan as an overstayer under s.10 of the Immigration and Asylum Act 1999.

The Appeal

5. The appellant appealed to the First-tier Tribunal. In a determination promulgated on 26 June 2015, Judge M Whitcombe dismissed the appellant's appeal on all grounds. In relation to the appellant's asylum claim, he made a number of positive findings:
 - (1) she was a credible witness;
 - (2) there was a real risk to her of serious harm as a result of domestic violence from her husband and his family if she returned to Pakistan and lived with her husband; and
 - (3) the Pakistani Authorities would not provide a sufficiency of protection against that risk.

However, the Judge found that the appellant could reasonably and safely internally relocate to live with her brother in her home village 30 miles away.

6. The appellant appealed with the permission of the Upper Tribunal granted on 24 August 2015 by UTJ Blum.
7. The appeal initially came before me on 31 March 2016. In a decision promulgated on 8 April 2016, I concluded that the Judge had materially erred in law in reaching his adverse finding that the appellant could internally relocate to live with her brother. My reasons are set out in my decision and it is unnecessary to repeat them here.
8. As a consequence, I set aside the First-tier Tribunal's decision in respect of the appellant's asylum claim and directed that the appeal be relisted for a resumed hearing before me in order to remake the decision in respect of the sole outstanding issue of internal relocation. The Judge's findings in

respect of risk on return and sufficiency of protection, not having been challenged, stood.

The Resumed Hearing

9. A number of documents were submitted on behalf of the appellant and admitted without objection by the Secretary of State. These included an expert report from Professor Aisha Gill and a witness statement from the appellant's brother dated 29 June 2016.
10. At the hearing, Mr Richards, who represented the Secretary of State, did not seek to resist the appeal being allowed on asylum grounds. He accepted that the appellant could not reasonably and safely be expected to live with her brother 30 miles away. The First-tier Tribunal had made a positive finding in respect of the appellant's credibility and there was now evidence from the appellant's brother that he would not be able to look after her because of his personal circumstances, in particular that he would be ostracised by the community as she would bring shame on her home and it would not be acceptable for her to live with him together with his family, in particular his three daughters. Mr Richards accepted that the appellant's claim was supported by the expert report of Professor Gill, in particular concerning the difficulties faced by the appellant's brother if she were to live with him. Mr Richards accepted that the respondent's case had never been that the appellant should seek relocation in a women's shelter. However, in any event, he accepted that the expert report did not support such an option in respect of the appellant.
11. Mr Hodgetts, who represented the appellant, in his brief submissions reminded me that the appellant was from a rural area, she had no education, there were no shelters in her home area and that the Judge had found that she had no financial means of support. It was not reasonable or safe to expect the appellant, even if she could live with her brother, to do so only 30 miles away from her husband - there is a close family link between her husband and her brother - as the appellant and her husband are first cousins.
12. In my judgement, Mr Richards properly accepted that the appellant could not safely and reasonably be expected to relocate within Pakistan. The option of living with her brother was not, in fact, on the evidence open to her and, in any event, would not obviate the very real risk from her husband given that her brother only lived 30 miles away and there was a close family connection between her brother and her husband.
13. Adding together the findings made by the First-tier Tribunal Judge that the appellant was at real risk of serious harm from her husband in her home area and the Pakistani authorities would be unable to provide a sufficiency of protection, with the finding which I make that the appellant cannot safely and reasonably be expected to internally relocate within Pakistan, I

am satisfied that the appellant has established a real risk of persecution on return to Pakistan for a Convention reason, namely that she is a member of a particular social group as a woman who is the victim of domestic violence.

14. Accordingly, the appeal is allowed on asylum grounds.

Decision

15. For the reasons set out in my earlier decision, the First-tier Tribunal's decision to dismiss the appellant's appeal on asylum grounds involved the making of an error of law. That decision was set aside.

16. I remake that decision allowing the appellant's appeal on asylum grounds.

17. For the same reasons, the appeal is also allowed under Articles 2 and 3 of the ECHR.

18. The First-tier Tribunal's decision to dismiss the appeal under Article 8 was not challenged and stands.

Signed

A Grubb
Judge of the Upper Tribunal

Date: 7th July 2016