



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-000192

FtT No: PA/51118/2022;  
LP/00551/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 23<sup>rd</sup> October 2024**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**RV**

**(ANONYMITY ORDER MADE)**

**and**

Appellant

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Ms Bailey-Perkins

For the Respondent: Mr Thompson, Senior Presenting Officer

**Heard at Phoenix House (Bradford) on 31 May 2024**

**DECISION AND REASONS**

1. The appellant, a citizen of the Philippines, appeals to the Upper Tribunal against a decision of the First-tier Tribunal (Judge Fisher) dismissing her appeal against a decision of the Secretary of State dated 22 February 2022 refusing her international protection.
2. The complex background to the appellant's appeal is set out by Judge Fisher at [1]. The judge noted that '[the appellant's nationality] was not in issue, although the author of the refusal letter considered that she could be removed to the Philippines or Pakistan. It was not accepted that her account was capable of engaging any of the five Refugee Convention reasons. Furthermore, the Respondent did not believe that she would be

at risk of persecution in Pakistan or the Philippines. The Appellant then exercised her right of appeal against the refusal of her protection claim.'

3. Granting permission to appeal, Judge Hutchinson stated:

The grounds are arguable. The judge failed to resolve all the issues before him. Whilst the appellant will have to establish that any arguable error is material, including given the judge's findings that the appellant can be removed to Pakistan, it is arguable that the judge erred in not reaching findings on whether the appellant has a well-founded fear of persecution on return to the Philippines, the country of her nationality. Whilst there is less, if any, merit in grounds 2 to 4, all grounds are arguable.

4. The grounds of appeal complain that the judge should not have considered whether the appellant could safely travel to Pakistan, the country of nationality of her husband, and has erred in law by failing to make any findings as to whether it is safe for the appellant to return to the Philippines. The grounds of appeal [3-5] state:

3. It is submitted that the First Tier Tribunal Judge appears to have been misdirected on this material point as I do not believe that the Respondent has any authority or jurisdiction to 'return' / remove the Appellant to Pakistan. The First Tier Tribunal Judge failed to question or exercise any anxious scrutiny or rational in relation to this material point.

4. The First Tier Tribunal Judge failed to acknowledge that the Appellant has never lived in Pakistan to be 'returned' there. It is submitted that at paragraph 15, the First Tier Tribunal Judge erred by placing too much reliance on the Appellant mentioning that her and her husband had planned to live in Pakistan and not in the Philippines to incorrectly justify the consideration of her 'return' to Pakistan. This is despite the fact any plans made by the Appellant would have been subject to receiving a successful application. There is no automatic right for the Appellant to live in Pakistan with her husband in the same way that there is no automatic right for a spouse of a British citizen to live in the UK.

5. The First Tier Tribunal Judge made a further error of law by stating at paragraph 15 that "...it is for the Appellant to demonstrate that she cannot be sent [to Pakistan]. She has failed to do so". It is submitted that this is the incorrect analysis.

5. I find that the grounds of appeal fail to establish that Judge Fisher made any error in concluding that the appellant could safely travel to Pakistan and that, in consequence, he did not need to consider whether she was at real risk on return to the Philippines. First, as the judge noted, the Secretary of State's refusal letter made it clear that the appellant could be returned to Pakistan. Notwithstanding that fact, the appellant has made no attempt to prove to the Tribunal that she cannot enter Pakistan as the spouse of her Pakistani husband or that she could not reside safely in that country with him. The burden of proof was on the appellant to meet the case made by the Secretary of State against her; doing so required producing evidence and/or making legally sound submissions to show that it is not possible or safe for her to live in Pakistan. She has completely failed to do so. Secondly, it is not clear what the grounds

mean when it is asserted that the respondent has no 'authority or jurisdiction' to remove the appellant to Pakistan [3]. The appellant is married to a Pakistan citizen. Having been clearly notified of the Secretary of State's intention to return her to Pakistan by reason of that marriage, it was for the appellant to prove to the Tribunal to the necessary standard of proof that she would not be admitted to Pakistan or would be at risk living there. She has not done so. Thirdly, the suggestion [4] that the appellant cannot be 'returned' to a country which she has never visited is without merit; if, in law, an individual can be removed to a particular country, it is irrelevant that one has not previously been there. Fourthly, the assertion that 'there is no automatic right for the Appellant to live in Pakistan with her husband in the same way that there is no automatic right for a spouse of a British citizen to live in the United Kingdom' is not supported by any evidence; if the appellant makes such an assertion, it is for her to prove it. Fifthly, the assertion that the judge was in some way wrong in law to state that it was for the appellant to 'demonstrate that she cannot be sent [to Pakistan]' is nothing more than that - an assertion; it is not supported by any authority. I repeat that the Secretary of State has throughout made it wholly clear she intends to remove the appellant to Pakistan. The appellant has produced no evidence that it would be unsafe for her to live in Pakistan with her husband. I find that the judge did not err in law as asserted or at all. He was entitled to find that the appellant could be removed to Pakistan and, consequently, given that there was another country to which the appellant could be removed, it was unnecessary for him to consider whether the appellant could return to live in the Philippines.

6. The remaining grounds of appeal are without merit. Ground 3 concerns return to the Philippines (see [5] above) whilst the judge was plainly entitled to find that the appellant's own credibility had been damaged by the supporting evidence she gave in her husband's unsuccessful asylum appeal in 2019.

### **Notice of Decision**

The appeal is dismissed.

**C. N. Lane**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Dated: 12 September 2024**