



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

Appeal Number: AA/10764/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 24 June 2014**

**Determination Sent
On 23 July 2014**

Before

**THE HONOURABLE MR JUSTICE HADDON-CAVE
UPPER TRIBUNAL JUDGE CLIVE LANE**

Between

MS BEHNAZ MORTAZAVI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hodson

For the Respondent: Mr Saunders, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal by the applicant, Ms Behnaz Mortazavi, against a decision of the First-tier Tribunal Judge Mrs R J N B Morris dated 8 January 2014 whereby the First-tier Tribunal Judge dismissed the appellant's appeal against a decision of the Home Office dated 20 November 2013 refusing the appellant's application for asylum.
2. Mr Hodson, who appears for the appellant, submits that the Immigration Judge's finding that the appellant's case was not credible was wrong and

unfair because the appellant's account was not, as he put it, "adequately engaged with" by the Immigration Judge. He submits, firstly, that the Immigration Judge referred to "discrepancies" which were not proper findings founded on the documents. Secondly, he submits the Immigration Judge made adverse findings in relation to, for instance, an Iranian lawyer whose evidence was relied on by the applicant which were not justified. Thirdly, he points to various "plausibility findings", which he said were not backed by evidence.

3. There is an air of unreality about this appeal. The appellant uses the usual technique of picking away at peripheral and minor points in the Determination and Reasons without grappling with the fundamental adverse finding of the judge as to credibility. In what appears to us to be a meticulous judgment, the Immigration Judge concluded as follows as regards the fundamental question of credibility:-

"18. I had the benefit of seeing and listening most carefully to the appellant as she gave her evidence. Moreover, I have compared her oral evidence with her written accounts given in statement and interview form. I have also compared the appellant's own evidence and that of the authors of the various documents she has produced in support of her case. Having had that opportunity, I state now at this early stage in my findings that I do not find the appellant's claim to be credible. The cumulative effect of the inconsistencies, contradictions and statements it contains is such as to cast serious doubt upon the reliability of the appellant's evidence and the veracity of her case."

4. The Immigration Judge went on to consider the appellant's initial excuse for the inconsistencies in her evidence, which was that English was not her first language and that both her screening interview and mainly her asylum interview were conducted in English. She said: "I find it difficult to keep my thoughts straight". However, there was clearly little substance in this excuse. As the Immigration Judge pointed out in paragraph 18, although the appellant had an English interpreter available, she hardly used the interpreter at all.
5. The core of her case was, as the Immigration Judge said in paragraph 18(i), the appellant's claim that she submitted a paper which she variously described as a "Proposal" or as a "Dissertation" to the Iranian MSRT, which attracted the adverse attention of the Iranian authorities. The Immigration Judge carefully considered each piece of evidence which the appellant relied upon to support that proposition of fact, and in relation to each aspect concluded that the evidence put forward by the appellant was not persuasive or credible. It would burden this appeal unnecessarily to catalogue all the many reasons why the Immigration Judge concluded as she did. Suffice to say that there was not simply one or two reasons given by the Immigration Judge for her conclusion on credibility, but a whole raft of reasons as to why she concluded that this appellant's core case was simply not credible. The laudable detail in the Reasons seems only to have provided the Appellant with an opportunity to pick away at minor individual points in the judgment in the vain hope of mounting some sort of credible appeal. One only needs to alight on a few aspects of the judgment to see how hopeless this appeal is.

6. At paragraph 21(ii) the Immigration Judge says this:-

“It is simply not plausible that the appellant would have handed in her documents three months before she was due to hand in her dissertation to the University of Plymouth and approximately six months before she expected to receive her Masters Degree.”

7. Mr Hodson submits that this was simply surmise and unfair of the Immigration Judge who should not have made this sort of “plausibility statement”. We ask rhetorically, why not? It is a perfectly reasonable for the Immigration Judge to have asked whether in the real world it was likely that a student would hand in a dissertation three months before the due date. It is the sort of implausible assertion which judges routinely reject.

8. The learned judge refers in paragraph 18(i)(a) to one of the discrepancies in the dates put forward by the claimant. She asserted in her witness statement that she had submitted the first set of documents to the MSRT on 20 September. However, according to her uncle’s evidence the documents were submitted around “2 - 3 Mehr 1391”. The problem for the appellant is that the translation of this date is on one view the equivalent of 23 to 24 September 2012, not the specific date of 20 September which the claimant relied on. Mr Hodson submitted that another translation would give it a vague date of “about 22 September”. Be that as it may, this is one aspect of many parts of the appellant’s case which the Immigration Judge was not satisfied about.

9. Another was in paragraph 18(i)(b) regarding the appellant’s assertion that on the day in question when the documents were actually delivered to the MSRT the appellant had told a friend of hers, Orla O’Reilley, that she had “been out in traffic all day in order to transport from the MSRT to her uncle’s which caused her a long delay to get to ours for dinner” (*sic*). The problem with that is that it clearly conflicts with the uncle’s evidence in his statement that “early in the morning, before going to work I drove her (the appellant) in my private car to the Ministry of Science and Research”.

10. The immigration judge went on in her judgment to look at the wider aspects of the case, and in particular whether or not the dissertation was obviously critical of the regime. She concluded on any reading of it, it is not. She considered whether it was likely that the appellant would have submitted a dissertation that was critical of the regime and would have got her into trouble. She concluded that it was not likely. She went on to consider whether or not the appellant was politically active. She was not.

11. In our view, the judgment is redolent of a careful analysis of the documents and a comparison with the documents against the appellant’s own evidence and amounts in our view to an unassailable rejection of the appellant’s case.

12. The only specific point on which permission to appeal was given was a point which Mr Hodson did not deal with in relation to paragraph 20 in which the Immigration Judge said this:-

“I have assessed the appellant’s claim independently of the Reasons for Refusal Letters. I found these letters to be detailed documents which gave a correct and balanced summary of the background material. They also dealt thoroughly with each aspect of the appellant’s claim cross-referencing where appropriate the particular finding in the Reasons for Refusal Letters with the relevant background material. Since I have found that the Reasons for Refusal Letters deal adequately with all the matters at issue and that the respondent’s findings and assertions (with which I agree) are fully argued in those documents, it would not serve any purpose for me to repeat them all here.”

13. In granting permission for this appeal it was suggested that it was arguable that in placing reliance on the refusal letters the Immigration Judge was not making an independent assessment of the evidence as a whole. We respectfully disagree. It is quite clear from the Immigration Judge’s findings that that is precisely what she was doing, making independent findings; but she also stated in paragraph 20 that in her view everything said in the reasons letter was correct. On reading those refusal letters we can understand why she formed that view. As we see from D3 to 4 and D6 to 7 of the bundle, the refusal letters make a pretty good job of shredding the appellant’s case.

14. In relation to the specific point Mr Hodgson made about the Judge’s treatment of the Iranian lawyer’s evidence, we would simply say that the Iranian lawyer’s evidence was in our view distinctly unimpressive. The Iranian lawyer’s letter dated 15 April in which asserted that he would “normally” refuse to take cases such as this because they were “quite complicated and sensitive”, but in this particular case for whatever reason he decided to look into the matter. The plausibility of his evidence is not helped by his assertion that Mrs Mortazavi resorted to writing a thesis to express her disagreement “with the policies and laws of the Islamic Republic”. On any quick reading of the dissertation is obviously not what she was doing. Mr Hodson also relied on some further evidence that students in Iran had fallen foul of this law without knowing about it. That does not take the case very much further. The Immigration Judge took the view that it was not reasonably likely that this appellant would have submitted a document to the MSRT which she knew would or could cause offence and bring her to the adverse attention of the authorities in Iran, and that is not a finding which, in our view, one can take issue with (see paragraph 22 of the reasons).

15. We re-iterate that the problem with this appeal, as indeed so many others, is that it fails to grapple with the fundamental finding of credibility which the judge summarised powerfully in paragraph 18 as follows:-

“the cumulative effect of the inconsistencies, contradictions and statements the appellant’s case contains such as to cast serious doubt upon the reliability of the appellant’s evidence and the veracity of her case”.

We are at a loss to see why permission to appeal was given in the first place.

16. This appeal is dismissed.

Signed

Date

Mr Justice Haddon-Cave