



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

Appeal Number: IA/32034/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 1<sup>st</sup> May 2015**

**Determination  
Promulgated  
On 6<sup>th</sup> May 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**Miss Sabir Tahir  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mrs Zahoor of Prestige Solicitors

For the Respondent: Ms Johnson, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Miss Sabir Tahir date of birth 16<sup>th</sup> August 1989, is a citizen of Pakistan. Having considered the circumstances I do not consider it necessary to make an anonymity direction.
2. This is an appeal by the Appellant against the determination of First-tier Tribunal Judge Mulvenna promulgated on 14<sup>th</sup> November 2014 whereby the judge dismissed the Appellant's appeal against the decision of the

Respondent dated 22<sup>nd</sup> July 2014. The decision by the Respondent was to remove the Appellant from the United Kingdom.

3. The appellant came to the UK in 2004. It appears that she travelled with a person not her parent and was travelling as a child of that person. The appellant travelled as his/her child on that person's passport. Thus the appellant clearly entered on a false basis, as acknowledged in the appellant's statement. At the time of her entry her mother and four siblings were already in the UK. They had entered two years earlier. Whilst entering on visit visas the mother and siblings were intending to stay permanently. The mother had claimed asylum but her claim for asylum had been refused and her appeal dismissed. The mother and the children had remained in the UK.
4. Ultimately the mother and the siblings had been granted discretionary leave under the legacy policy. However as the appellant was not part of the original asylum claim and had never been part of the claim, it appears that she was not entitled to the benefit of the legacy policy. She was not part of the application to be considered under the legacy policy. The appellant has complained as noted by the judge that lawyers failed to include her in the application.
5. The appellant's father had remained in Pakistan with the appellant in 2002 and even after the appellant came to the UK he remained in Pakistan.
6. On the 5<sup>th</sup> March 2012 the appellant made an Article 8 human rights application, ultimately that was refused and a decision made to remove the appellant from the UK. The appeal against that decision was heard by Judge Mulvenna, who dismissed the appeal.
7. By decision made on the 12 January 2015 leave to appeal to the Upper Tribunal was granted. Thus the matter appears before me to determine in the first instance whether or not there is an error of law in the original determination.
8. The leave granted suggests that the judge has made material errors of fact and specifies those in the following terms:-
  - "2. In his grounds for onward appeal, the appellant asserts that the judge has made a material errors of fact in that contrary to the judge's findings that she was to come to the United Kingdom with her father, she was to follow her mother and siblings due to the problems that she was having with her father in Pakistan.
  3. It is arguable that the making of, what appears to be, an error of fact, at paragraphs 14 and 15, and may have contributed to the judge's findings on credibility and been central to his decision to dismiss the appeal.
9. In Paragraph 14 and 15 of the Decision Judge Mulvenna refers to the fact that the appellant's mother and her four younger children came to the United Kingdom in September 2002. The judge then continues by referring

to the fact that the appellant the eldest child and the father had remained in Pakistan. The judge then says that it was clear that they were intending to follow the other family members to the United Kingdom as soon as funds were available. In paragraph 15 the judge points out that despite what the appellant's mother says when the appellant came to the United Kingdom she did not have a valid visa and the appellant entered unlawfully. The judge also refers to the fact that the mother had claimed that she had been ill treated by her husband before she left Pakistan and that the father had not cared for the appellant whilst they were left in Pakistan together. The father allegedly had made the appellant unwelcome and did not care for her.

10. The circumstances in which the appellant came to the United Kingdom are set out in her statement at D9 of the bundle. The appellant's representative sought to rely upon the oral evidence given by the appellant and the appellant's mother. She was seeking to argue that the evidence disclosed that the mother came to the United Kingdom to claim asylum by reason of an abusive relationship with the father. First and foremost the judge noted that the asylum claim had been refused.
11. In her statement, at D9 paragraph 7 and 8 the appellant had stated that the mother could not afford visit visas for all the family. The father had decided to stay in Pakistan and the appellant had remained with him.
12. I also draw attention to the letter written by the solicitors acting for the appellant at the time. [page D3 appellant's bundle]. There the solicitors state as part of the background that "*Due to financial problems, Miss Tahir remained in Pakistan with her father while funds were raised to arrange their travel to the UK.*"
13. The appellant's representative sought to argue that this was a typographical error and that the evidence otherwise given before the judge confirmed the abusive relationships.
14. Returning to the appellant's statement paragraph 11 the appellant refers fact that life in Pakistan was difficult, she missed her mother and siblings and her father was rarely at home. He was always out with his friends and the appellant was left alone.
15. The references by the judge in the summary of the evidence appear to be an accurate reflection of the evidence in the statements before him. The judge was entitled to take that evidence into account in determining the appeal. The judge clearly took into account the claims made with regard to the abusive relationship by the father against the daughter and the evidence given in that regard.
16. There is no error in the facts as recorded. It may be that the representative would want to ignore the appellant's statement but the judge has accurately recorded what is set out therein and there is no factual error.

17. Otherwise it has to be noted that the mother on the death of her father returned to Pakistan and stayed in Pakistan for a period of a month with her sister without any problems. Whatever else can be said the appellant has a father and other family members in Pakistan.
18. The judge in determining the appeal has properly recorded parts of the evidence given before him and was entitled to act on that evidence. There is no error of law arising out of the judge's summary of the facts.
19. With regard to the second ground there is reference to paragraph 69 and 77 of the decision. As the decision by Judge Mulvenna runs to only 31 paragraphs the ground is not focused on the decision made. In essence it seems to be argued that as the appellant has been in the United Kingdom since 2004, the judge has failed to take into account the fact that she has been in the United Kingdom for that period of time.
20. The grounds of appeal go on by referring to the best interests of the child. This appellant is an adult. This appellant entered the United Kingdom whilst a child but was aware that she was coming on a wholly false and fraudulent basis. Her mother who had had an asylum claim had been refused asylum and was only granted leave subsequently on the basis of the legacy policy. The family brought the appellant into the United Kingdom knowing that they had no basis for staying at that time and brought her in on false documentation
21. The judge assessed all the evidence including the fact that the appellant had had three solicitors seeking to assist her. The judge has a final matter concluded that the decision was proportionately justified taking into account the fact that the appellant had family members in Pakistan, including a father, and all of the circumstances advanced.
22. The judge has given ample reasons for coming to the conclusions that he did. The judge has given justifiable reasons for concluding, taking account of the standard set within the Immigration Rules and taking account of section 117 of the 2002 Act, that the decision was proportionately justified. The judge has properly assessed the facts and given valid reasons for the conclusions reached. In the circumstances there is no arguable error of law in the decision.
23. There is a no material error of law in the determination. I uphold the decision to dismiss this appeal on all grounds.

Signed

Date **1<sup>st</sup> May 2015**

Deputy Upper Tribunal Judge McClure