



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

Appeal Number: AA/09721/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21<sup>st</sup> April 2016**

**Decision & Reasons Promulgated  
On 13<sup>th</sup> July 2016**

**Before**

**UPPER TRIBUNAL JUDGE DEANS**

**Between**

**[J Z]**

**(~~ANONYMITY DIRECTION NOT MADE~~)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss S Anzani of Counsel, instructed by Nag Law Solicitors  
For the Respondent: Mr T Wilding, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision by Judge of the First-tier Tribunal A M S Green dismissing an appeal on asylum and human rights grounds.
2. The Appellant was born on [ ] 1989 and is a national of Pakistan. She entered the UK in February 2014 as a student and claimed asylum in

February 2015. The claim was made on the basis that she has a well-founded fear of persecution because of her membership of a particular social group, namely women in Pakistan.

3. It was accepted on behalf of the Respondent that women form a particular social group in Pakistan for the purpose of the Refugee Convention. The Respondent accepted also that the Appellant is a national from Pakistan and that she was married to a man called [GA].
4. According to the Appellant she is from a traditional family in Pakistan. She was under pressure from her family from an early age to marry a cousin. This led her to attempt suicide in July 2010. In the same year she met [GA] and in 2011 they started a relationship in secret. In 2012 the Appellant's father asked her to marry her sister's brother-in-law but the Appellant refused. The Appellant self-harmed again and was in hospital for three days.
5. In September 2013 the Appellant ran away with [GA] to Lahore. They applied for student visas for the UK, both of which were granted. They left Pakistan in February 2014 and initially lived in London, where the Appellant enrolled as a student. A week after arriving in the UK, [GA] visited his sister in Dewsbury. On his return he told the Appellant that his family would not accept her. In March 2014 he went to see his sister again and did not return. The Appellant has not seen him since and had spoken to him only once, three months after he left.
6. In September 2014 the Appellant's father contacted her via Skype and threatened to kill her if she returned to Pakistan. This prompted the Appellant to claim asylum. She has subsequently entered into a relationship with another man who is a Sri Lankan national in the UK with a student visa. The Appellant has a sister in the UK, who has disowned her because of her relationship with her present partner.
7. The Judge of the First-tier Tribunal found the Appellant's evidence generally coherent and plausible. She had not claimed asylum at the earliest opportunity but the judge accepted her explanation for delay. The judge accepted that her evidence was generally credible. The judge accepted that the Appellant had been threatened by her father and her uncle and that she had been disowned by her father because of her marriage to [GA]. The judge accepted that the Appellant is separated from her husband and in a new relationship. If she returns to Pakistan she would do so as a lone woman. As she had been threatened by her father and her uncle she faced the risk of persecution or serious harm in her home area and she could not return there.
8. The judge considered whether the Appellant could safely go elsewhere in Pakistan. The judge had regard to the case of SM (lone women - ostracism) Pakistan [2016] UKUT 0067. This indicated that there might be the option of internal relocation to one of Pakistan's larger cities. The judge noted that the Appellant had already lived in Lahore, albeit with her

husband, without incident or threats from her family. This suggested that internal relocation to Lahore was possible although she was no longer with her husband and would not be able to access support from family members or a male guardian in the place of relocation. Her family had disowned her and she had not been in contact with them since September 2014. This might make it more difficult for her to relocate internally. She might not be able to use a State domestic violence shelter because these operated on the basis of reconciling family with their family networks and places were in short supply. There appeared to be little prospect of family reconciliation. There were, however, factors that favoured internal relocation. The Appellant was 26 years old and well-educated. Her age and education would help her to find work to support herself, suggesting it would not be unduly harsh to relocate. She did not have children. She might be able to avail herself of a privately run shelter, which would be a more flexible arrangement and provide her with longer term support. There was nothing to suggest that her partner could not visit her in Pakistan. He would be able to protect her during such visits. In the final analysis the balance tipped marginally in favour of the Appellant relocating to a city in Pakistan.

9. The judge went on to consider the risk of suicide and found that the threshold for an Article 3 claim based on the risk of suicide was not reached by reliance on a single line of a doctor's report. There were no GP or hospital records from the UK and the judge could not meaningfully assess whether the Appellant suffers from any mental illness or was at risk of suicide.
10. The judge also considered the appeal under Article 8 and found that the interference in the Appellant's private life was not disproportionate. The judge accepted that the Appellant has a relationship with her current partner but the couple were not living together and the evidence did not allow the judge to find whether it was a genuine and subsisting relationship. The Appellant had established a private life in the UK while her immigration status was precarious.

### **Application for permission to appeal**

11. In the application for permission to appeal the judge's findings in relation to internal relocation were challenged. The judge had suggested that the Appellant's current partner could visit her in Pakistan and protect the Appellant during such visits. This was inconsistent with the finding made under Article 8, where the judge questioned whether the relationship was genuine and subsisting. Furthermore, the findings showed that the judge considered the Appellant to be in need of protection upon return to Pakistan. It was irrational to suggest that this protection could be adequately provided by a boyfriend visiting Pakistan occasionally. The judge made no mention of the Appellant's situation when she was not being protected by her boyfriend.

12. It was further contended that although the judge suggested the Appellant might be able to avail herself of a privately run shelter, this finding was largely negated by the acceptance that places in such shelters were limited. No consideration was given to the situation faced by the Appellant if she was unable to secure a place, or the situation she would face after being required to leave such a centre.
13. It was further contended that although the Appellant has a first degree and a Masters degree, her employment in Pakistan prior to coming to the UK had been as a receptionist. In SM the Upper Tribunal referred to internal relocation in terms of whether a woman has qualifications enabling her get well paid employment and pay for accommodation. The Tribunal also referred to the significant discrimination faced by women in employment and the fact that they were frequently paid less than men for similar work. It is contended that the judge did not give consideration to the level and nature of employment likely to be available for the Appellant, nor the remuneration she would be likely to receive. The suggestion that because of her age and education alone she would be able to relocate to Lahore was speculative and insufficiently reasoned. The judge had erred in his assessment of whether it was unduly harsh for the Appellant to internally relocate within Pakistan.
14. Permission to appeal was granted on the basis of whether the Appellant could reasonably be expected to relocate internally. The judge had recognised that the Appellant was a person in need of protection. Having made this finding it was arguable that it was not open to the judge to find that sufficient protection might be provided by a boyfriend who would only occasionally be able to visit the Appellant, particularly as the judge made no finding as to whether the Appellant would find a shelter but, owing to the limited number of places, only that she might.
15. The Respondent submitted a rule 24 notice dated 23<sup>rd</sup> March 2016. This described the decision of the Judge of the First-tier Tribunal as comprehensive and balanced, finding that there was a viable internal flight alternative. The judge properly directed himself in terms of SM and applied the guidance in this case. The judge reached findings which were open to him on the totality of the evidence, having regard to the Appellant's circumstances. The judge had identified and reserved all the material conflicts between the parties and set down in clear terms reasons for the findings.

## **Submissions**

16. At the hearing before me Ms Anzani relied on a skeleton argument. There was a finding that the Appellant was in need of protection - the question was one of who would provide this protection. The Appellant was in a relationship with a Sri Lankan national in the UK. The Judge of the First-tier Tribunal said this man could visit the Appellant in Pakistan and provide protection for her during these visits. An obvious question arose as to what would happen to the Appellant when the man was not there. He had

no entitlement to reside in Pakistan. His visits would be sporadic. The Appellant was a 26-year-old woman ostracised by her family and at risk from relatives in Pakistan. The assessment of risk was further undermined by the judge's finding that the Appellant's relationship with her boyfriend had not been shown to be genuine and subsisting. There was a question of what was reasonable in terms of internal relocation. The judge thought the Appellant's age was in favour of her relocating but the guidance on this was quite clear from SM - the Appellant was not an older female. The judge took no account of what would happen if the Appellant was unable to find a place in a shelter or was required to leave. This was contrary to guidance SM. Detailed consideration of the facts was required but the judge found at paragraph 24 only that the balance tipped marginally in favour of relocation. This was on the basis of findings which had not been properly reasoned and the balancing exercise was flawed. The decision should be re-made.

17. Miss Anzani continued that the only factors tending to show that relocation would not be unduly harsh was the Appellant's education but notwithstanding her qualifications she was employed as a receptionist before she left Pakistan. She had never had an independent life in Pakistan but had lived with her family or with her husband. The decision in SM pointed to it not being unduly harsh for well-educated women to live on their own in larger cities, where they might obtain well paid employment. This did not apply to this Appellant, who was relatively young and had a social stigma through being ostracised by her family and abandoned by her husband. She would be severely prejudiced by returning to Pakistan, to live without a male protector.
18. For the Respondent, Mr Wilding submitted that there was no error of law in the judge's treatment of internal relocation. The judge had followed SM. The Appellant had an employment history in Pakistan. The judge took into account this and the Appellant's education. It was difficult to find anything which the judge had failed to consider. There was a question of whether the Appellant's current partner would visit her in Pakistan. The judge did not need to go into the question of whether the Appellant would definitely be able to live in a shelter. The judge found the Appellant was well-educated and her age and education would help her to support herself. This conclusion was consistent with the country guidance. The judge had made proper findings without an error of law.
19. Mr Wilding continued that if an error was found then the country guidance was clear. The Appellant was educated. There was nothing to suggest she would have been able to work. The Respondent's refusal letter dealt with the issue of shelters and this should be considered in relation to internal relocation. If the decision was to be remade then it should be found that the Appellant could relocate internally within Pakistan.
20. Reference was made to paragraph 19 of the decision where the judge recorded that the Appellant had some work experience as a teacher. Mr

Wilding explained that this had been the Appellant's husband's occupation.

21. Mr Wilding responded to the issue of whether visits by the Appellant's current boyfriend would constitute protection. Mr Wilding submitted that while every case depended upon its own facts, the lack of male protection applied to many women.

## **Discussion**

22. Overall the Judge of the First-tier Tribunal has approached the evidence in this appeal this with care and deliberation. I accept Miss Anzani's submission, however, to the effect that there is an illogicality in the judge's reasoning in relation to internal relocation. Having found that the Appellant would be at risk in her home area and would not have male protection on relocating, the judge nevertheless suggested that protection could be afforded the Appellant by occasional visits by her current boyfriend, notwithstanding that the judge was uncertain as to whether there was a subsisting relationship between the Appellant and her boyfriend. It is illogical to suggest that the Appellant's need for male protection in Pakistan would be provided by a man who would visit the Appellant only occasionally and only if the relationship was subsisting. Miss Anzani rightly asked the question as to what the Appellant's position would be in between such visits and it is this which should have occupied the judge's attention.
23. Furthermore, as Miss Anzani pointed out, the Appellant has been ostracised by her family and abandoned by her husband with a resulting social stigma. She would be returning to Pakistan not as a mature woman but as a young woman, albeit well-educated but with little work experience and, indeed, no work experience commensurate with her qualifications.
24. For the Respondent, Mr Wilding directed me to the passages in the refusal letter dealing with support which could be provided to women returning to Pakistan, particularly in terms of privately run shelters. Private shelters are referred to at paragraph 33, where the country information suggests that these facilities are small-scale and few and far between. The primary concerns of the private organisations appear to be domestic violence and "honour" crimes.
25. So far as this Appellant is concerned, the judge found that she would be at risk in her home area. As far as relocation is concerned, the question is not only one of safety but also of reasonableness, in the sense of whether it would be unduly harsh to expect the Appellant to relocate. Given the paucity of places in private shelters, it seems to me that little weight can be placed on the availability of such a place. The Appellant is a young woman, entirely alone, with no regular male protector, and with the social stigma of having been abandoned both by her family and by her husband. Notwithstanding her education, there seems little prospect of the

Appellant being able to maintain and support herself in Lahore under these circumstances. It is more likely the Appellant would face isolation, very limited employment opportunities, and the vulnerability that this would bring to her. In other words, when full consideration is given to the Appellant's circumstances in accordance with SM, the conclusion which is reached is that it would be unduly harsh to expect the Appellant to relocate to Lahore to avoid serious harm in her home area.

26. I therefore substitute for the decision of the judge the decision which should have been made, which is that the appeal is allowed on asylum grounds on the basis that the Appellant is at risk of persecution in her home area as a member of a particular social group and that the alternative of internal relocation would be unduly harsh.

### **Conclusions**

The making of a decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I re-make the decision in the appeal by allowing it.

### **Anonymity**

The First-tier Tribunal made an order for anonymity. I was not asked to continue this order and I see no reason of substance for so doing, I therefore lift the order.

### **Fee Award**

**Note:** This is not part of the decision

I was not addressed on whether to make a fee award. My understanding is that no fee has been paid and therefore no fee award is made.

Signed

Date: 13 July 2016

Upper Tribunal Judge Deans