



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

Appeal Number: PA/05474/2016

THE IMMIGRATION ACTS

Heard at Columbus House, Newport

Decision &

Reasons

On 18th August 2017

Promulgated

On 21st August 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE MANDALIA

Between

**BZ
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms. S Nowaparast, NLS Solicitors

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

DECISION AND REASONS

1. The First-tier Tribunal ("FtT") has made an anonymity order and for the avoidance of any doubt, that order continues. BZ is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the

appellant and to the respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

2. This is an appeal against a decision by FtT Judge Page promulgated on 18th November 2016, in which he allowed the appellant's appeal against the decision of the Secretary of State for the Home Department of 20th May 2016, to refuse the claim for asylum made by BZ.
3. The appellant before me, is the Secretary of State for the Home Department and the respondent to this appeal, is BZ. However, for ease of reference in the course of this decision, I shall adopt the parties' status as it was before the FtT. I shall refer to BZ as the appellant, and the Secretary of State, as the respondent.
4. The appellant is a Pakistani national who first arrived in the UK on 5th September 2014. She claimed asylum on 28th January 2016. Her immigration history and the background to her claim for international protection is set out at paragraphs [2] to [3] of the decision of the FtT.
5. The FtT Judge heard evidence from the appellant and her elder sister. The Judge found the appellant to be a credible witness. The evidence received by the Judge is set out at paragraphs [11] to [16] of his decision. At paragraph [17] of his decision, the FtT Judge refers to the decision of **SM (lone women - ostracism) [2016] UKUT 67**, in which the Tribunal held that where a risk of persecution or serious harm exists in the applicant's home area for a single woman or a female head of household, there may be an internal relocation option to one of Pakistan's larger cities, depending on the family, social and educational situation of the woman in question. The Judge noted, at [17], that it would not normally be unduly harsh to expect a single woman or female head of household to relocate internally within Pakistan if she can access support from family members or a male guardian in the place of relocation. He also noted that a single woman or female head of household who has no male partner or social network, may be able

to use the state domestic violence shelters for a short time, but the focus of such shelters is on reconciling people with their family networks, and these places are in short supply and time is limited.

6. At paragraphs [18] and [19], the Judge sets out his findings. The Judge accepted, at [18], the evidence of the appellant and her sister that the appellant has been a victim of domestic violence from her husband. He found that the appellant would be at risk in Pakistan from her husband's family. The Judge notes, at [18], the hostility towards the appellant from her own family, of having married someone other than her cousin in an arranged marriage. The Judge found, at [18], that the appellant could not return safely to her home area. At paragraph [19], the Judge sets out his reasons for concluding that the appellant could not reasonably seek the protection of the state, if she returned to her home area. The Judge went on to allow the appeal.
7. The respondent sought permission to appeal to the Upper Tribunal alleging the FtT Judge, whilst referring to the decision in **SM (lone women - ostracism)**, failed to deal with the issue of internal relocation, and whether it would be unduly harsh for the appellant and her daughter to live elsewhere in Pakistan.
8. Permission to appeal was granted by FtT Judge Grant-Hutchinson on 13th January 2017. The matter comes before me to consider whether or not the decision of FtT Judge Page involved the making of a material error of law.
9. Before me, Mr Richards adopted the grounds of appeal. He submits that the scope of the appeal is a narrow one. The respondent accepts that the finding of the FtT that the appellant could not return safely to her home area, is one that was open to the Judge on the evidence. Although the FtT Judge correctly refers himself to the guidance in **SM**, he does not make any finding as to whether it would be reasonable to expect the appellant and her daughter to return to Pakistan and live

elsewhere. Mr Richards submits that the failure to adequately address the issue of internal relocation is material, because the appellant is plainly a well-educated woman who is capable of obtaining good paid employment in Pakistan and of supporting herself. He submits it would also be open to the appellant to take advantage of an application for assisted voluntary return. He submits that the Judge should have considered the social and educational situation of the appellant but does not address any of those matters in his decision. In failing to do so, the Judge erred in law and the error, is capable of affecting the outcome of the appeal.

10. In reply, Ms Nowaparast submits that the issue of internal relocation is, although muddled, considered by the Judge at paragraph [17] of his decision. She submits that the Judge properly recognised that it would not normally be unduly harsh to expect a single woman or female head of household to relocate internally within Pakistan, if she can access support from family members or a male guardian. The Judge noted that alternatively, a single woman or female head of household who has no male partner or social network, may be able to use the state's domestic violence shelters for a short time, but the focus of such shelters is on reconciling people with their family networks. The judge found, at paragraph [17], that there appears little hope of reconciliation with the appellant's family. She submits that the Judge effectively accepts that as there is little hope of reconciliation with the appellant's family, she would be unable to turn to the state's domestic violence shelters, and thus she could not live elsewhere in Pakistan.
11. Ms Nowaparast accepts that in reaching his decision, the FtT judge makes no reference to the appellant's education or the resources that might be available to her and her daughter, if they were to live elsewhere in Pakistan.

Discussion

12. I have carefully read the decision of the FtT. I accept that the Judge correctly refers, at [17], to the relevant decision of **SM (lone women - ostracism)**. I reject the submission by Ms Nowaparast that the issue of internal relocation is adequately considered by the Judge at paragraph [17] of his decision. Importantly in my judgment, at paragraph [17] of his decision, the Judge states:

“... I approach this case on the footing that the appellant could theoretically return to Pakistan and seek the protection of the state if she has no family or social network to return to that could support her. On the appellant’s case there appears little hope of reconciliation with her family so the question is whether it would be reasonable to expect the appellant to return to Pakistan and live like this with her daughter.”

13. Having identified at paragraph [17] that *“the question is whether it would be reasonable to expect the appellant to return to Pakistan and live like this with her daughter”*, the Judge does not address that question in his decision. At paragraph [18], the Judge found that the appellant could not return safely to her home area, for the reasons that appear at paragraph [19]. However, the Judge does not then address whether it would be unduly harsh for the appellant and her daughter to live elsewhere in Pakistan. He does not consider whether the internal relocation option is open to the appellant.
14. The failure to deal with the question of internal relocation does in my judgement disclose a material error of law in the decision of the FtT that is capable of affecting the outcome of the appeal. The parties are agreed that the nature and extent of any judicial fact-finding necessary with regard to that issue will be extensive and the matter should be remitted to the FtT.
15. The decision needs to be re-made and I have decided that it is appropriate to remit this appeal back to the First-tier Tribunal, having taken into account paragraph 7.2 of the Senior President’s Practice Statement of 25th September 2012.

16. The following findings are preserved;
- a. The appellant been a victim of domestic violence from her husband; [18]
 - b. The appellant could not return safely to her home area; [18]

Notice of Decision

17. The decision of the First-tier Tribunal is set aside.

18. The matter is remitted to the First-tier Tribunal for hearing.

Signed _____ Date 18th August 2017

Deputy Upper Tribunal Judge Mandalia

FEE AWARD

As I have set aside the decision of the First-tier Tribunal and remitted the matter for re-hearing I make no fee award.

Signed _____ Date 18th August 2017

Deputy Upper Tribunal Judge Mandalia