



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

PA/00082/2018
PA/00079/2018

THE IMMIGRATION ACTS

**Heard at Glasgow
On 1 November 2018**

**Determination issued
On 15 November 2018**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

A.S.S. & P.K.S.

Respondents

For the Appellant: Mr M Matthews, Senior Home Office Presenting Officer
For the Respondent: Mr T D Ruddy, of Jain, Neil & Ruddy, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this determination refers to them as they were in the FtT.
2. The appellants are father and daughter, accepted by the SSHD to be Sikhs from Afghanistan.
3. This decision is to be read with:

- (i) The SSHD's decisions dated 15 December 2017, refusing the appellants' claim.
 - (ii) The appellants' grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of Designated FtT Judge Murray, promulgated on 26 March 2018.
 - (iv) The SSHD's grounds of appeal to the UT, stated in the application for permission to appeal dated 10 April 2018.
 - (v) The grant of permission dated 16 April 2018.
 - (vi) The rule 24 response, dated 13 June 2018, to the grant of permission.
4. Ground 1 contends that the judge noted difficulties with the appellants' evidence at [58], [60] and [71], but allowed the appeal only because the appellants are Sikhs from Afghanistan, and the standard of proof is low, without making any finding on credibility. Ground 2 is on the same theme, alleging absence of a finding about a threatening letter from the Taliban. Ground 3 says that absence of fact-finding is a material error, and that *per country* guidance, being an Afghan Sikh is not enough.
5. Mr Matthews acknowledged that at [58] the judge said that discrepancies were "not major", and at [71], summing up, that she had "minor doubts", but he said that left matters unresolved, and the case required to be reheard in the FtT.
6. Mr Ruddy submitted on these lines:
- (i) The respondent's decision addressed to the second appellant at [23] identifies "one major discrepancy" between the accounts of the two appellants, namely that her father made no mention at any point of a threat to kidnap his daughter.
 - (ii) That was also a major point in the respondent's decision addressed to the first appellant at [34].
 - (iii) The paragraphs referenced in ground 1 went to that alleged discrepancy.
 - (iv) As the judge went on to find nothing in it, very little more was required to explain the outcome. At [60] the judge accepted that the first appellant *had* mentioned the threat at interview. At Q/A 31 he said, "... they gave us one month to ... accept Islam or they will kill us and take my daughter by force and convert her and marry her."
 - (v) The one major point raised by the SSHD was resolved in favour of the appellants.

- (vi) Ground 2 referred to a minor issue raised at the hearing by the SSHD about the appearance of the threatening letters, which the judge rejected at [61.
 - (vii) At [63] the judge declined to give “much weight” to failure to claim in third countries. Again, no error was alleged.
 - (viii) The judge found only minor reasons for which the appellants’ evidence might be doubted, and resolved the main issue in their favour. There was no absence of findings on the core of their case.
7. I find that the line of submission by Mr Ruddy is well founded, and that the grounds and submission for the SSHD do not disclose absence of findings by the judge. Reading her decision fairly and as a whole, she found them credible, having given sound reasons for rejecting the SSHD’s main criticisms of their credibility made in the refusal letters and in submissions at the hearing.
 8. On reference to Q/A 31, it appears that the SSHD’s major credibility point was wrong in the first place.
 9. The decision of the First-tier Tribunal shall stand.
 10. No anonymity direction has been requested or made.



6 November 2018
Upper Tribunal Judge Macleman