



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/03102/2018

THE IMMIGRATION ACTS

Heard at Manchester
On 23rd August 2018

Decisions & Reasons Promulgated
On 25th September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

[M N]
(ANONYMITY DIRECTION MADE)

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Wood of Immigration Advice Services
For the respondent: Mrs Pettersen, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The appellant is a national of the Democratic Republic of Congo, born on 15 July 1982.
2. She was questioned at Heathrow airport on arrival on 11 October 2017. Her passport contained a ten-day visit Visa to attend an international teachers conference. She was asked about the conference and could give no details. She then made a claim for protection.

3. She said she was a medical doctor and a visa had been arranged so she could get out of the country. She said she had been working in a hospital in Kinshasa on 7 August 2017 when a number of injured were admitted to the hospital following fighting between the authorities and members of a political party. After the incident, the authorities played down the number killed. The respondent felt obliged to correct this when a radio station crew came to the hospital. In the course of the interview she criticised Pres. Kabila and indicated support for doctors who were on strike.
4. Because of this she was suspended from work. Then, on 9 August 2017 two men from the State Intelligence came to her home with summonses which they left with her mother. On 12 August 2017 eight men came to her home looking for her but she was at work. When she heard of this she decided not to return home and went into hiding. She managed to get support from a family friend, Mr. SM who was a DRC Member of Parliament. He arranged with officials at the airport so she could pass through unhindered.
5. The respondent refused the claim on 19 February 2018. The respondent did not accept she was a doctor which fundamentally undermined the chain of events described. She had claimed that she did not realise speaking on the radio could get her into trouble. This was not considered credible.

The First tier Tribunal

6. Her appeal was heard by Judge of the First-tier Tribunal Lloyd- Smith on 5 April 2018. In a decision promulgated on 17 April 2018 it was dismissed. The judge did not find the appellant to be credible. Reference was made to differences within her account. At screening she had not mentioned speaking to a local radio station or of a summons having been issued. In her substantive interview she refers to speaking on the media and being critical of the regime. If this were the root of her problems the judge expected this would have been mentioned at the earliest opportunity.
7. At screening she said she had received a general diploma/certificate in surgery and childbirth and the judge concluded this was not the qualification expected for a doctor. The appellant was asked at hearing about this and she said she had a diploma in general medicine but when she graduated her certificate also referred to her being a midwife and the surgeon. The judge did not find this convincing and included she most likely was a midwife.
8. The judge also commented on the fact that whilst the appellant said she was afraid to return to work at the hospital after the summons arrived she continued working in another private hospital only 40 min drive away.
9. The judge also found it incredible that she would go to the Embassy about her Visa if she had been living in fear and hiding. The judge did not accept she was

of any interest to the authorities, pointing out she was able to obtain the Visa and then leave the country through the airport.

10. At paragraph 16 (d) the judge commented on an identification card produced in the appellant's bundle and at paragraph 17 states that it and the other documents were only submitted the day before the hearing, thus offering no opportunity for the respondent to follow up with any enquiries. The photographs produced did not identify her as a doctor. One photograph showed her sitting behind a desk with a stethoscope around her neck. Another picture was of a baby being born by Caesarean section. The photographs showed gloved hands delivering the baby and did not identify the appellant.

The Upper Tribunal

11. Permission to appeal to the Upper Tribunal was granted on the basis the judge was mistaken in concluding supporting documents was only produced the day before the hearing. This was relevant to the weight the judge attached to the documentation and the respondent's ability to carry out checks. The grounds of appeal contended the documentation except the photographs was given to the respondent staff at the airport when she arrived. One of the documents was still retained by the respondent. It was pointed out that the respondent had not objected to the admission of the documentation nor was an adjournment sought in order to carry out verification tests. It was also argued the judge failed to properly consider the e-mail sent from a Congolese MP.
12. It is not disputed that the judge has accurately set out the appellant's claim. The thrust of the challenge is really quite narrow and relates to the judge commenting that the documentary evidence was produced the day before the hearing and consequently the respondent was disadvantaged in carrying out checks. It is of note however that the judge gives many more reasons for rejecting the claim.
13. It is accepted on behalf of the appellant that the appellant's bundle containing the documentation was only given the day before the hearing. It is contended however that the documents were before immigration officials at the airport and so the respondent was not disadvantaged. However, there is no correspondence in relation to this. She also claims that one item has still been retained yet there is no correspondence to support this.
14. I have considered the case history. A Notice of Appeal dated 5 March 2018 was filed by Immigration Advice Service. Directions issued on 7 March 2018 required her representatives to provide a paginated indexed bundle of all documents relied upon. A prehearing review was to take place on 22 March 2018. This notice indicated that the full hearing was listed for 5 April 2018. A reply notice was returned to the Tribunal by her representatives indicating that a full appeal bundle was being prepared. The prehearing took place on 22 March 2018 by way of the papers and standard directions were issued.

15. A notice of hearing was issued on 23 March 2018 advising the appellant and her representatives that the hearing was fixed for 5 April 2018. A letter was then received from her representatives dated 3 April 2018 advising the Directions could not be met. Reference was made to difficulties arranging a meeting with the appellant including illness; adverse weather and problems obtaining an interpreter. There was also reference to some documents awaiting translation. An appeal bundle was received from the appellant's representatives under cover of a fax dated 4 April, being the day before the hearing. There was an index to the bundle which included a document said to confirm her employment as a doctor; photographs showing her at work and of the MP whom she said helped her along with an e-mail said to be from the same MP.
16. The appellant arrived in the country on 11 October 2017. Her appeal was listed for 5 April 2018, almost 6 months later. Her representatives indicated they were having problems complying with the Directions. However there was no reference to earlier production of original documentation or of documentation being retained by immigration officials when the appellant arrived. As it turned out the documentation was not particularly voluminous.
17. I have considered the information that was placed before the judge. 2.6 of the screening asked the appellant what her level of education was. The reply was a general diploma/certificate in surgery and giving birth from the University. A 13 of the respondent's bundle contains a risk assessment when she arrived at Heathrow. There is a section which is ticked indicating documents were retained but these are not identified. At question 25 of the appellant's substantive interview she refers to having a degree rather than the diploma or certificate. She gave some details about working in a hospital and referred to the Hippocratic Oath. C1 and 2 are documents in French from the Faculty of Medicine in Kinshasa. These are referred to in the refusal letter at paragraph 19.
18. In the decision at paragraph 9 the judge refers to having received inter alia a copy of the appellant's service card as a doctor. The judge also refers to photographs of the appellant working. Before me Mr Wood indicated the former was a copy subsequently sent to her by her sister. At paragraph 10 the judge then refers to the principal in Tanveer Ahmed.
19. At paragraph 13 onwards the judge sets out why she concludes the appellant is not credible. The judge mentions her reference to a diploma/certificate at screening and then to having a degree in her substantive interview. The judge evaluated the appellant's explanation and did not find it convincing. This was a matter for the judge.
20. At paragraph 16 onwards the judge deals with the appellant's claim to be a doctor. The judge comments on the photographs. I can find no fault with the comments made. In themselves the photographs do not confirm that she is a doctor but would suggest she is working in a hospital, possibly as a nurse as the

judge concluded. There is also a photograph of a baby being delivered. Again the same logic applies.

21. The identification card was produced at a late stage. There is no evidence to suggest the respondent had this earlier and the judge makes a fair comment that if it were produced late then the respondent would not had an opportunity to seek verification. It is not sufficient to suggest an adjournment should have been sought. It is up to the appellant's representative to comply with the Directions.
22. The judge makes a similar comment about the letter from the MP and deals with the document at paragraph 17.
23. Ultimately, it is my conclusion the appellant's representatives have focused upon a very narrow point. It has not been established the documentation was before the respondent in time for checks to be carried out. In any event the judge clearly only refers to this as one aspect of the claim. The judge gives numerous reasons for finding the claim is not credible. Given the evidence provided it was reasonable for the judge to find that the appellant had some association with a hospital most likely as a midwife as her qualifications suggested. In summary I can find no material error of law established when the decision is looked at in its entirety.

Decision

No material error in the decision of First-tier Judge Lloyd-Smith has been established. Consequently, that decision dismissing the appellant's appeal shall stand.

Francis J Farrelly

Deputy Upper Tribunal Judge

Date: 22 September 2018