



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04917/2017

THE IMMIGRATION ACTS

Heard at North Shields
On 23rd May 2018

Decision & Reasons Promulgated
On 12th July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

Ms S K
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Khan of Legal Justice Solicitors
For the respondent: Mr Diwynycz, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The appellant made a claim for protection and included his wife and younger brother as his dependant. He said they were of the Hindu religion and lived in Kabul, Afghanistan. He claimed his brother had been attending classes run by the Taliban and when he stopped the family were threatened. The account was not considered credible. It was accepted, however, that he was a Hindu.
2. His appeal was heard by First-tier Judge Moran at Bradford on the 30th June 2017. In a decision promulgated on 19 July 2017 it was dismissed. The judge

did not accept the account of his brother going to classes run by the Taliban and the appellant's family being threatened.

3. Permission to appeal was granted based on the grounds in the application and in particular on the basis no specific findings of fact were made regarding the position of the appellant's wife. Reference is made to the country guidance case of TG and Others (Afghan Sikhs persecuted)Afghanistan CG[2015] 00595 (IAC) which concerns the position of Sikhs in Afghan society. Hindus were treated as analogous.
4. When the appellant was interviewed in respect of his claim he said in response to questions 8 and 9 that his wife was not allowed to work or to receive an education. It was argued that the judge did not engage with this issue. Mr Diwyncz did not seek to argue to the contrary.
5. Both parties are in agreement that the matter should be remitted to the First-tier Tribunal for a de novo hearing. This is on the basis that the Judge should have assessed not only the risk to the appellant but also the position of his dependents, particularly his wife.

Decision.

The decision of First-tier Tribunal Judge Moran materially errs in law and is set aside. The matter is remitted for de novo hearing before the First tier Tribunal.

Francis J Farrelly
Deputy Upper Tribunal Judge