



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05280/2017

THE IMMIGRATION ACTS

Heard at North Shields
On 3rd April 2018

Decision Promulgated
On 21st May 2018

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

MISS R MA
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mrs L Brakaj of Iris Law Firm (Middlesbrough)
For the respondent: Mr. McVeety, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The appellant is a national of the Kingdom of Saudi Arabia. She arrived in the United Kingdom by air on the 30th December 2016 and claimed protection.

2. She was born in November 1988 and states she is unmarried. She explained that she is an orphan who at the age of six months was taken from an orphanage and placed with a foster family. She stated that as an orphan everything affecting her was subject to approval by her foster family and she required permission from the government on some matters. Furthermore, a supervisor was appointed by the government to monitor and supervise her care. She was given a name which identified her as being an orphan.
3. She attended King Abdul Aziz University in Jeddah city. She graduated in 2013 with a degree in psychology. She then obtained a scholarship to study English in America. She was accompanied by a male guardian. It was arranged that the grandson of her foster father, Abdurrahman, would accompany her. He is aged 23.
4. They travelled in September 2015. She described conflicts with him in America about her behaviour and the maintenance of Saudi Arabian traditions. She returned to Saudi Arabia in August 2016 and was hopeful of returning to America for further studies. However, Abdurrahman had complained to the family about her behaviour and attitude whilst in America. She said her foster family behave differently towards her.
5. She approached her supervisor to see if she could return to America, only alone this time. The supervisor said she could not as the authorities had been advised of how she had behaved whilst there. She was told that if a complaint had been pursued through the courts she could have faced a lashing. She was required to give an undertaking as to her behaviour. The appellant then said she decided to try leaving Saudi Arabia and to this purpose sought and visit visa for the United Kingdom.
6. She says that on 20 November 2016 she met her supervisor. She was told her marriage was being arranged. She protested and was told to wait outside. The appellant then spoke to another supervisor who agreed to let her return to her foster family on giving another undertaking. She said she told her foster mother she was travelling to the United Kingdom to further her studies.
7. The respondent refused the claim. It was accepted that women formed a particular social group in Saudi Arabia. However, it was not accepted that the appellant was an orphan. Even if she were, any mistreatment because of this amounted to discrimination rather than persecution.
8. The respondent did not accept her claim of an arranged marriage. Reference was made to country information indicating that at the appellant's age she would no longer be under the control of the authorities.
9. Her appeal was heard by First-tier Tribunal Judge Hindson and was dismissed in a decision promulgated on 24 August 2017. The judge accepted

that the appellant was an orphan and did not agree with the respondent's interpretation of the country information about guardianship. The judge concluded a female in Saudi Arabia must have a male guardian and in the case of an orphan, that will continue to be the State until she marries. The judge did not see the appellant at any risk for un-Islamic behaviour, pointing out that nothing came of the incidents in America. The judge acknowledged that she experienced some discrimination and she was an orphan but this did not amount to persecution.

10. Permission to appeal was granted on the basis the judge did not deal with whether she faced a forced marriage which could amount to persecutory treatment.
11. At hearing the presenting officer accepted that the judge had not dealt adequately was the question of forced marriage.

Conclusion.

12. Both parties are in agreement that the judge did not deal adequately with the appellant's claim that she was at risk of a forced marriage. The judge dealt with the merits of the claim rather briefly. Consequently, the failure to deal with this amount of material error of law. Therefore, I set the decision aside and order a rehearing before a different judge in the First-tier Tribunal.
13. The respondent in the refusal did not accept the appellant had a genuine subjective fear. I would not wish to restrict the enquiry of the judge that ultimately deals with the case and consequently would preserve none of the findings made.

Decision.

The decision of First-tier Tribunal Judge Hindson dismissing the appeal materially errs in law by not considering the claim in its entirety. Consequently, that decision is set aside and the matter remitted for a de novo hearing before the First-tier Tribunal.

Francis J Farrelly
Deputy Upper Tribunal Judge

Directions.

1. Realist for a de novo hearing before any First-tier Judge except First-tier Judge Hindson. The hearing should be at North Shields unless the appellant's location has since changed in which case her representative should advise the Tribunal office.
2. The appellant's representatives are to advise if an Arabic interpreter is required. If so, a Middle Eastern interpreter would be preferable.
3. The appellant's representatives are to prepare an appeal bundle. It was indicated hearing that they may engage an expert to deal with the situation of female orphans in Saudi Arabia and the question of marriage. This however is a matter for them.
4. The respondent should seek to provide information held in relation to the visit visa applied for by the appellant to come to the United Kingdom. This may be of assistance in relation to determining her circumstances and the genuineness of her subjective fear.
5. It would be helpful if the respondent country information about the need for a female to be chaperoned for travel outside Saudi Arabia and any information specific to orphans.
6. It is anticipated the hearing would take not more than 2 1/2 hours.

Francis J Farrelly
Deputy Upper Tribunal Judge

Date 18 May 2018