



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/06134/2019**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC**

**Decision & Reasons**

**On 13<sup>th</sup> November 2019**

**Promulgated**

**On 26<sup>th</sup> November 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE D N HARRIS**

**Between**

**MRS SHAHEEN JAVAID  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr G Brown, Counsel

For the Respondent: Mr C Bates, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Pakistan born on 13<sup>th</sup> July 1958. The Appellant has a very poor immigration history. She entered the United Kingdom in July 2009 on a valid visit visa which was due to expire in January 2010. The Appellant, subsequent to that visa, failed to leave the UK and became an overstayer. In 2015 she submitted an application for asylum. That application was refused. On refusal of that application the Appellant again continued to overstay and on 4<sup>th</sup> July 2018 the Appellant made a further application pursuant to a claim based on human rights. That application was based on her private life and was refused by notice of refusal dated 12<sup>th</sup> March 2019.

2. The Appellant appealed and the appeal came before Judge of the First-tier Tribunal Mather sitting at Manchester on 22<sup>nd</sup> July 2019. In a Decision and Reasons promulgated on 7<sup>th</sup> August 2019 the Appellant's appeal was dismissed.
3. On 7<sup>th</sup> August 2019 grounds of appeal were submitted to the Upper Tribunal. Those grounds contended that there had been a failure by the judge to properly assess the private life claim to remain under paragraph 276ADE(1)(vi) on account of both an inadequacy of reasoning and a failure to properly assess material evidence.
4. On 9<sup>th</sup> October 2019 Judge of the First-tier Tribunal Loke granted permission to appeal considering that it was arguable that the judge had failed to give any reasons for her findings at paragraph 21 and that the evidence did not support the claimed level of difficulty given the evidence of the Appellant's son and the supporting medical report.
5. It is on that basis that the appeal comes before me to determine whether or not there is a material error of law in the decision of the First-tier Tribunal Judge. The Appellant appears by her instructed Counsel, Mr Brown. Mr Brown is extremely familiar with this matter. He appeared before the First-tier Tribunal and he is the author of the grounds of appeal. The Appellant personally is not in attendance but her son is. The Secretary of State appears by his Home Office Presenting Officer, Mr Bates.

## **Submissions**

6. Mr Brown takes me to the decision of Judge Mather. His main argument follows the findings of the judge to be found at paragraph 21. That paragraph is short and of some importance. It reads:-

"I am not persuaded that the evidence supports the claimed level of difficulty by the Appellant in carrying out activities of daily living."

What Mr Brown contends is that that conclusion is written in isolation without the judge having given reasons as to how she reaches such conclusions. It is consequently, as is often the case in the Upper Tribunal, a challenge to the judge's reasoning and as to how in this instance the judge has reached her conclusions. He contends that the judge has arguably not applied her mind to the central issue as to whether by reason of her physical and mental state she is a person who cannot in fact integrate into any country and that in order to properly assess this the judge needed to first give reasons why she rejected the evidence that was given that the Appellant could not carry out a number of daily living activities. He contends that the judge does not within the body of the evidence set out in any great detail the evidence which was given by the Appellant's son and other family members, but does record at paragraph 10(c) that the Appellant's son and wife and another son are responsible for supporting the Appellant "both financially, physically and emotionally.". He contends that the judge at paragraph 21 has simply given no reasons why she rejects the evidence of "the claimed level of difficulty by the

Appellant in carrying out activities of daily living". He contends that this lack of reasoning and this failure to assess in his view properly the evidence regarding the Appellant's physical and mental state showing a gap in her reasoning which does not lead her to come to the conclusion that she has and he contends that such gap constitutes a material error of law.

7. In response Mr Bates submits that the judge had the Appellant's evidence before her and that he also had the benefit of both written and oral testimony. He points out that at paragraph 9 the judge indicates that there were bundles from both parties before her and at paragraph 10 recites in some detail the Appellant's case and claims based on both the written and oral evidence. Thereafter, at paragraph 11, the judge states that in reaching her conclusions she has had regard to all of the evidence before her, including the background information.
8. Mr Bates points out that consideration of the Appellant's bundle showed that medical evidence was before the judge and that there was nothing from the Appellant's GP that provided support and that the evidence produced by consultants was not helpful to the Appellant's claim, pointing out that the main concern was that the Appellant would be lonely if returned to Pakistan. That in fact is something he points out is specifically mentioned by the judge at paragraph 22 of her decision. He submits that there was no objective testimony available to suggest that the Appellant was not capable of caring for herself. He reminds me the judge heard her witnesses and there was no evidence, for example, suggesting that because of the Appellant's health needs someone would have to remind her to take her tablets. He refers me to paragraph 19 where the judge has set out the Appellant's mental health condition and the manner in which this mental health condition is treated. The judge has noted that the Appellant is not in receipt of specialist care in the UK and submits there is nothing in the evidence that was before the Tribunal, or indeed even accepted by the judge, to show that her care would reach the required level for the claim to succeed. He submits that there is no medical evidence available that would lead to the judge having come to a different conclusion and that she has carried out a full and detailed analysis. He asked me to dismiss the appeal.

### **Findings on Error of Law**

9. This is a thorough decision from an experienced Immigration Judge. It is always easy with hindsight to suggest that perhaps a fuller analysis could have been set out, but indeed judges are invited to be succinct in their reasons and the important fact is that reasons are given and I am satisfied explained. Despite the submissions made by Mr Brown I am satisfied that this is a judge who has given reasons for reaching her decision. Firstly, she has indicated the evidence that was before her and not only has she done that, but at paragraph 10 has set out in some considerable detail an analysis of both the written and oral testimony that was before her. It is clear that the judge has read the documents. Thereafter the judge, admittedly briefly, has made reference to the Appellant's mental health,

noted the medication she is under and the lack of specialist care and at paragraph 20 has gone on to note that the Appellant has been accessing free treatment on the NHS despite being an overstayer with precarious immigration status. Whilst it might have been better for perhaps a further paragraph to be put in, the conclusion of the judge at paragraph 21 is one that she was entitled to make and it is also clear from what she has said before and what is recited herein in this decision, that in reaching those conclusions the judge has considered all the evidence and made reasoned findings.

10. Further, paragraph 22 goes on to emphasise this in that therein the judge refers to the Appellant's family in Pakistan, her overstaying and sets out that she appreciates the Appellant's various medical issues but is satisfied that she will have access to appropriate medication and treatment if returned. She further notes that there is a potential consequence of loneliness, but that this does not reach the required threshold for her claim to succeed and sets out the basis by which contact and visits can continue. Finally, at paragraph 23 the judge has indicated that she is not persuaded that there are exceptional circumstances in this case to warrant a grant of leave to remain outside the Rules.
11. When looked at comprehensively, this is a judge who has actually carried out a thorough analysis and that the conclusion she has reached at paragraph 21 is one based on, for all the above reasons, an analysis of the evidence and facts that were before her. To that end the submissions of Mr Brown amount to little more than of the approach by the judge. In such circumstances I am satisfied that this is a decision that discloses no material errors of law and the Appellant's appeal is dismissed and the decision of the First-tier Tribunal Judge is maintained.

### **Notice of Decision**

12. The decision of the First-tier Tribunal contains no material error of law and the Appellant's appeal is dismissed and the decision of the First-tier Tribunal is maintained.
13. No application is made for an anonymity direction and none is made.

Signed

Date 15 November 2019

Deputy Upper Tribunal Judge D N Harris

### **TO THE RESPONDENT FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date: 15 November 2019

Deputy Upper Tribunal Judge D N Harris