



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

Appeal Number: HU/10315/2018

THE IMMIGRATION ACTS

**Heard at Birmingham IAC (Priory Courts)
On 3 June 2019**

Decision & Reasons Promulgated

On 15th July 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**MS AMANPREET KAUR
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Appearances:

For the Appellant: Mr I Ali, Counsel instructed by One Immigration (Leicester)
For the Respondent: Mrs H Aboni, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of India, date of birth 14 January 1997, appealed against the Respondent's decision, dated 18 April 2018, to refuse leave to remain on humanitarian grounds. The appeal came before First-tier Tribunal Judge I F Taylor, who on 17 October 2018 dismissed the appeal on all grounds relating to human rights issues. Permission to appeal that decision was given on 13 November 2018.

2. The basis on which permission was given by First-tier Tribunal Judge E M Simpson. Judge Simpson concluded that the decision arguably disclosed the judge had erred in the assessment of the Appellant's dependency and whether it was more than the usual emotional ties had been evidenced between the Appellant and her siblings. Secondly, she concluded that the judge had failed to properly address the issue of gender based violence against the Appellant, in the light of the CPIN in relation to 'India: Women fearing gender based violence (July 2018)'.
3. When the matter came before me the argument, particularly from Mr Ali, were that there was substance in the point that, at the date of hearing before the judge, all of the Appellant's immediate family members including her parents and three siblings, now aged 19, 16 and 8 years of age, had leave to remain (LTR) in the UK with the youngest sibling being a British national. The family members had been granted further LTR and it could not be argued that the future of the family did not lie in the UK.
4. It was argued that the judge erred in law by overlooking the fact that two of the Appellant's siblings were minors and ignoring the evidence of her active involvement in their lives meant that the Appellant was actively enjoying family life with her siblings as well as other family members. Thus it was said the judge erred in failing to find that family life existed between the Appellant and family members which required proper weight to be attached to it when considering the public interest question more widely. As a matter of fact the judge appeared to have made an error of fact in concluding that the basis of residence for other members of the Appellant's family was unlawful and precarious, whereas it no longer was. To what extent that played in the decision was difficult to discern, given the reasons provided.
5. It was plain that, when the Appellant arrived in the United Kingdom as a minor, she could not really be held responsible for her immigration status or the basis on which entry had been effected and she remained. It was

argued that the Appellant was a young adult and remained a child of the family which the judge had failed to properly consider.

6. Much of the general argument turned on a correct assessment overall of the relationship between the Appellant and other family members and the impact upon her of removal, in terms of the interference in the family life which they have enjoyed.
7. On the face of it the Appellant had not become independent as to have effectively left the family. It seemed to me that there was some substance in those matters being looked at in the round. Accordingly I find the judge in the assessment of the family life issues had made a material error of law in assessing the family relationships and impact in the Article 8ECHR claim. I do not express any view whether or not the effects of separation will have the degree of harsh consequences needed to succeed in the claim.
8. As to the issue of gender based violence the weight to be given to that point was not entirely dictated by the extent to which the Appellant's evidence had or had not effectively addressed the issue. Whether or not there was such real risk to the Appellant, if the claim in other respects fails, then if pursued the matter will require evidence and submissions on the remaking of the case.

DECISION

The appeal is allowed to the extent that it is to be remade in the First-tier Tribunal.

DIRECTIONS

1. No findings of fact to stand.
2. All issues to be addressed that are currently relied upon by the Appellant.
3. A Punjabi interpreter is required.

4. Time estimate is two hours.
5. Two witnesses. Any others to be notified to the Respondent with their nationality and statements.
6. Any additional documents relied to be served not less than 10 clear working days before the further hearing
7. To be heard at Nottingham Hearing Centre but not before First-tier Tribunal Judge I F Taylor.

ANONYMITY ORDER

No anonymity order was sought nor was one required.

FEE AWARD

No fee award is appropriate at this stage in the process.

A handwritten signature in black ink, appearing to read 'T. Davey', with a stylized, cursive script.

Signed

Date 24 June 2019

Deputy Upper Tribunal Judge Davey