



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

Appeal Number PA/11111/2018

THE IMMIGRATION ACTS

Heard at Field House
On 29th January 2019

Decision and Reasons Promulgated
On 5th February 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

MARLYN [G]
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Miss M Vidal (Counsel, Haris Ali Solicitors)
For the Respondent: Mr D Clarke (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant's asylum claim, made arising from her having left her employers alleging significant ill-treatment, was rejected. Although the claims of ill-treatment were accepted along with the evidence relating to domestic servitude in the Philippines, the appeal was dismissed for the reasons given in the decision promulgated on the 8th of November 2018.
2. The grounds argue that the Judge had not assessed whether the Appellant's treatment amounted to persecution in the light of the positive findings that had been made at paragraph 27 of the decision. That was material as past persecution is probative of future risk. It is also argued that the Judge had failed to consider the risk to the Appellant on return as a victim of servitude, she was the sole breadwinner for the family.

3. At the hearing the Home Office accepted that from paragraph 13 of the skeleton argument before the First-tier Tribunal it had been argued that the Appellant would be at risk as a former slave and that there would be no effective state protection. It was further accepted that that was a material error and that the appropriate course of action would be for the decision to be set aside and for the appeal to be remitted to the First-tier Tribunal for re-hearing.
4. I raised whether the Appellant had been referred to NRM for investigation of her circumstances. It transpired that the referral had not been made until the end of the hearing before the First-tier Tribunal, it was not clear why there had been a delay but there is nothing to suggest that is not right. As matters stand there is no information on the progress of the Appellant's case.
5. In the circumstances it is appropriate to set the decision aside but preserving the findings made by First-tier Tribunal Judge Mace set out in paragraph 27 that the Appellant had been treated very badly by her employers and that she had been physically abused. It will be incumbent on the Judge hearing the case next to make a finding as to whether the treatment amounted to persecution but having regard to the findings made by the NRM.
6. Given that there are proceedings in the NRM it is appropriate that the case is listed for CMR at Hatton Cross and for the First-tier Tribunal to be informed of the progress of the NRM referral before listing instructions can be given. Directions are given separately.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision, the appeal is remitted to the First-tier Tribunal for re-hearing with findings preserved as indicated above, not to be heard by First-tier Tribunal Judge Mace.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I make no order.

Fee Award

In remitting this appeal I make no fee award which remains a matter for the First-tier Tribunal Judge at the conclusion of the renewed hearing.



Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 29th January 2019