



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/16189/2019**

THE IMMIGRATION ACTS

**Heard at Field House
On 26 July 2021**

**Decision & Reasons
Promulgated
On 04 August 2021**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**SHANAZ AKHTER
[NO ANONYMITY ORDER]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Anawar Miah of Counsel, instructed by Farani Taylor solicitors

For the respondent: Mr Esen Tufan, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 17 September 2019 to refuse her leave to remain in the United Kingdom on the basis of private life and medical issues, with reference to paragraph 276ADE. The appellant is a citizen of Pakistan.

Background

2. The appellant came to the United Kingdom on a family visit visa on 19 June 2013, having entered three times previously on the same visa and left at the end of her visit. On this occasion, she did not do so. The appellant has had no valid leave since 19 December 2013, when her visit visa expired. She has adult children and grandchildren here but no dependents under the age of 18.

Refusal letter

3. In her refusal letter dated 20 May 2015, the respondent found that there were no very significant obstacles to reintegration in Pakistan, where the appellant lived until she was 43 years old (she is 58 years old now). The links she had with her adult siblings and extended family members were not considered to be exceptional circumstances. The application was refused under paragraph 276ADE(1)(i), (iii), (iv), (v) and (vi) of the Rules, which excluded her from the 10-year settlement route.
4. The respondent also considered whether leave to remain should be granted outside the Rules on compassionate grounds on the basis of the appellant's health. She complained of depression, anxiety, stress, low mood, suicidal thoughts, colitis, osteoarthritis, a vitamin D deficiency, severe memory loss, essential hypertension, dizziness, chest pains, nausea and vomiting, raised lipids, hiatus hernia and reflux. The appellant had been prescribed Simvastatin (20 mg), Losartan (50 mg) and Lansoprazole (30 mg).
5. A letter from the appellant's general medical practitioner, Dr Jyoti Singh, confirmed the hypertension, osteoarthritis, depression and vitamin D deficiency. The appellant had also been referred to the spinal diagnostic team.
6. A letter from Lucy Lipscomb, Senior Psychological Wellbeing Practitioner mentioned assessing the appellant due to issues with low mood, anxiety and stress. There were occasional thoughts of self-harm but the appellant had made no plans and had no developed suicidal intention, which would be contrary to her religion, nor had she any history of attempts. She feared her ex-husband might harm her if she were returned to Pakistan.
7. The respondent considered that treatment was available in Pakistan for the appellant's health issues and that these did not amount to compassionate factors for which leave to remain ought to be granted. Pakistan had a functioning healthcare system and none of the conditions were life threatening.
8. Following the refusal, the appellant appealed to the First-tier Tribunal.

First-tier Tribunal decision

9. On 11 December 2019, First-tier Judge Easterman dismissed the appeal. It is common ground that he failed entirely to address whether there were 'very significant obstacles to integration' in Pakistan.

10. The appellant appealed to the Upper Tribunal.

Permission to appeal

11. On 21 April 2020, First-tier Judge Foudy granted permission to appeal, on the basis that the First-tier Judge had arguably failed adequately to consider what, if any, very significant obstacles the appellant faced to reintegration in Pakistan.

Rule 24 Reply

12. There was no Rule 24 Reply from the respondent.
13. That is the basis on which this appeal came before the Upper Tribunal.

Upper Tribunal hearing

14. On 20 August 2020, Upper Tribunal Judge Blundell gave directions to clarify what had been argued before Judge Easterman, to be considered at an oral hearing. The hearing was originally to have been heard remotely but fortunately it has been possible to hear it face to face as the Covid pandemic restrictions have eased recently.
15. In consequence, the Tribunal has the advantage of seeing the notes of Ms Amanda Jones, who appeared for the appellant at the First-tier Tribunal, and Mr Adebisi Adenaike, the Home Office Presenting Officer who represented the respondent. It is quite clear from these notes that the question of whether there were very significant obstacles remained in issue before the First-tier Tribunal.
16. Mr Tufan for the respondent submitted that the First-tier Judge's reasoning on proportionality and exceptional and/or compassionate circumstances outside the Rules was sufficient to indicate that had he considered whether there were significant obstacles to reintegration, he would have reached the same conclusion and that any error of law was thus immaterial.

Analysis

17. So far as relevant to this appeal, paragraph 276ADE(1)(vi) is as follows:

“Requirements to be met by an applicant for leave to remain on the grounds of private life

276ADE (1). The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant: ...

(vi) ... is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but *there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK.*”

[Emphasis added]

18. I indicated to Mr Tufan that I was not with him on his argument that the error would have been immaterial to the outcome of the appeal. The refusal letter relied on paragraph 276ADE(1)(vi) and an express finding of fact on that issue should have been made.
19. There was no alternative but to set aside the decision of the First-tier Judge and arrange for the appeal to be reheard afresh in the First-tier Tribunal.

DECISION

20. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision.

The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Signed [Judith AJC Gleeson](#)
Upper Tribunal Judge Gleeson

Date: 26 July 2021