



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/11962/2019**

Appeal Number:

THE IMMIGRATION ACTS

**Remote Hearing by Skype
On 16th March 2021**

**Decision & Reasons
Promulgated
On 24th March 2021**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**H E M
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard, Fountain Solicitors

For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

ANOYMITY

An anonymity direction was made by the First-tier Tribunal (“FtT”). As this a protection claim, it is appropriate that a direction is made. Unless and until a Tribunal or Court directs otherwise, HEM is granted anonymity. No report of these proceedings shall directly or indirectly

identify her or any member of her family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

INTRODUCTION

1. The hearing before me on 16th March 2021 took the form of a remote hearing using skype for business. Neither party objected. The appellant did not join the hearing, but I was informed by Mr Howard that she was at the offices of Fountains Solicitors and she would be available if required, although he did not propose to call her to give evidence. In any event, she will be kept informed of the progress of her appeal. The representatives were able to see and hear me and each other throughout the hearing. I sat at the Birmingham Civil Justice Centre. I was addressed by the representatives in exactly the same way as I would have been if the parties had attended the hearing together. I was satisfied: that no party has been prejudiced; and that, insofar as there has been any restriction on a right or interest, it is justified as necessary and proportionate. I was satisfied that it was in the interests of justice and in accordance with the overriding objective to proceed with a remote hearing because of the present need to take precautions against the spread of Covid-19, and to avoid delay. I was satisfied that a remote hearing would ensure the matter is dealt with fairly and justly in a way that is proportionate to the importance of the case, the complexity of the issues that arise, and the anticipated costs and resources of the parties. At the end of the hearing I was satisfied that both parties had been able to participate fully in the proceedings.

Background

2. The appellant is a national of Ethiopia. She arrived in the UK on 13th January 2019 and claimed asylum on 17th April 2019. The appellant claimed to be of Oromo ethnicity and at risk upon return to Ethiopia as a member of the OLF. Her claim was refused by the respondent for reasons set out in a decision dated 27th November 2019. The appellant's appeal

was dismissed by First-tier Tribunal Judge Chohan for reasons set out in a decision promulgated on 19th February 2020.

3. The background to the appellant's claim for international protection is summarised at paragraphs [2] and [3] of the decision of Judge Chohan:

"2. ... The appellant worked as a housemaid in Saudi Arabia between 2011 and 2019. The appellant's husband had been working in Saudi Arabia as a driver for a much longer period. The appellant claimed that she and her husband are of Oromo ethnicity. The appellant's husband was a member of the Oromo Liberation Front (OLF). In 2017, the appellant claims that she returned to Ethiopia for a visit for a period of three months. During that time the appellant claims that she witnessed the mistreatment of the Oromo people. At one point, the appellant claims that her father had been detained and mistreated. Upon return to Saudi Arabia, the appellant claims that she began to undertake activities for the OLF. Sometime in 2017, the appellant claims that her husband was deported from Saudi Arabia to Ethiopia. In Ethiopia, the appellant's husband, according to the appellant, remains in detention and his whereabouts are unknown.

3. With the assistance of her employer in Saudi Arabia, the appellant obtained a Visa to enter the United Kingdom. The appellant arrived in the United Kingdom on 13 January 2019. However, it was not until 17 April 2019 that the appellant claimed asylum. The appellant gave birth to a daughter in the United Kingdom on 26 March 2019. "

4. The appellant gave evidence at the hearing of her appeal through an interpreter. The findings and conclusions of First-tier Tribunal Judge Chohan are set out at paragraphs [8] to [28] of the decision. Judge Chohan accepted the appellant is of Oromo ethnicity. He went on to consider the appellant's affiliation with the OLF. At paragraph [10] of the decision, Judge Chohan refers to a letter from the OLF, United Kingdom, dated 3rd January 2020. The author of the letter is the Chairman of the OLF committee in the UK, Mr Terefe Gesifata Belay. At paragraphs [11] to [13] of the decision, Judge Chohan addressed the concerns that he had regarding the claims made in the letter. Judge Chohan concluded, at [13], said:

".... When one stands back and considers the appellant's claim and the OLF letter, they do seem like two different claims. For the reasons set out above, I attach no weight to the OLF letter. In my view, rather than support the appellant's claim, it has fundamentally undermined her claim as a whole. It does seem that the OLF letter has been submitted without a detailed

consideration of its contents. Had that been done, it would have been apparent that it falls far short in supporting the appellant's claim."

5. Judge Chohan went on to address the appellant's claim that she is married and that her husband had been deported from Saudi Arabia to Ethiopia. At paragraphs [16] to [18] of the decision, Judge Chohan said:

"16. Even if I were to give the appellant benefit of the doubt and accept that she is married as claimed, for the reasons set out above, I do not find her account to be credible. There are significant flaws in the appellant's account which fundamentally damage the appellant's credibility as a whole. In my view, the appellant has simply put forward an account in order to remain in the United Kingdom, perhaps to seek a better life. That I do not hold against her, but it is not a reason for granting refugee status.

17. Considering the facts and evidence in their entirety and for the reasons set out above, I find the appellant has never been a member or supporter of the OLF and has never been of any adverse interest to the authorities in Ethiopia. Irrespective of my adverse credibility findings, I must still consider if the appellant would be at risk if she were to be removed.

18. In short, if the appellant were to be removed to Ethiopia she would face no real risk of persecution, serious harm or ill-treatment. I have considered the country guidance case of MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 000303 and other objective material submitted on behalf of the appellant. In view of my findings, the appellant does not fall into any of the risk categories identified in the CG case. My attention was not drawn to any evidence to suggest that the appellant would be at risk for simply being a returned failed asylum seeker. No doubt, on return the appellant may well be questioned by the authorities but because she has never been of any adverse interest, she should experience little, if any, difficulties. According to the appellant's own account she left Ethiopia in 2011 for Saudi Arabia; returned to Ethiopia in 2017; and then went back to Saudi Arabia. At no time has the appellant stated that she had any problems entering or leaving Ethiopia. Similarly, she should have no problems if she were to be removed.

"

The appeal before me

6. The appellant applied for permission to appeal on seven separate grounds. She was granted permission to appeal by First-tier Tribunal Judge Keane on 6th April 2020 on the first ground only. The appellant claims Judge Chohan failed to make any findings in relation to the appellant's *sur place* activities for the OLF. She refers to the letter from the OLF dated 3rd January 2020 which refers to the appellant's attendance at an Oromo Activist Meeting on 1st December 2019 and the OLF AGM on 9th November 2019. The appellant claims Judge Chohan failed to make

findings as to whether the appellant is accepted to have been involved in any *sur place* activities. In granting permission, First-tier Tribunal Judge Keane said:

“... It was, however, incumbent upon the judge to arrive at findings in respect of all material contentions advanced by the appellant. The appellant contended that he (*sic*) had embarked upon *sur place* activities in the United Kingdom. The judge did not arrive at an explicit finding as to whether the appellant had embarked on such activities and if so whether his (*sic*) undertaking of such activities in the United Kingdom would expose him (*sic*) to a well-founded fear of persecution upon his (*sic*) return to Ethiopia...”

7. The appellant renewed the application for permission to appeal to the Upper Tribunal on the remaining grounds. Permission to appeal was refused by Upper Tribunal Judge Hanson on the remaining grounds on 6th July 2020.

8. At the hearing of the appeal before me, I invited Mr Howard to draw my attention to the evidence relied upon by the appellant in support of her claim that she has been involved in *sur place* activities for the OLF. The appellant arrived in the UK on 13th January 2019, and Mr Howard accepts she made no reference to any *sur place* activities during the screening interview completed on 17th April 2019. Mr Howard submits that is not surprising given the short period that the appellant had been in the UK before she made her claim for asylum. The appellant signed a witness statement dated 21st May 2019 in support of her claim for international protection. Mr Howard quite properly accepts that again, the appellant made no reference in that statement to any *sur place* activities in the UK. Mr Howard also accepts that there is no reference by the appellant to any *sur place* activities in the UK in the asylum interview record that was completed on 13th November 2019. Following the refusal of her claim by the respondent on 27th November 2019, the appellant made a statement in reply, dated 14th January 2020. Mr Howard drew my attention to paragraphs [17] and [21] of that statement in which she states:

“17. I am actively involved with the Oromo Liberation Front (OLF). I have provided evidence to corroborate this.

...

21. I have been actively involved with the OLF. My life will be in danger as a result.”
9. For the sake of completeness, I also note that at paragraph [18] of her statement dated 14th January 2020, the appellant states: “*I am a supporter of the OLF. I have evidence from the OLF regarding my membership. My husband was also a member of the OLF.*”.
10. Mr Howard, quite properly in my judgement, accepts that the appellant’s own evidence before the First-tier Tribunal regarding her *sur place* activities, was limited. She essentially relied upon the matters set out in the letter from the OLF dated 3rd January 2021.
11. The respondent has filed and serve a Rule 24 response dated 19th October 2020. The respondent submits that the alleged supporting evidence for the appellant’s activities in the UK on behalf of the OLF, came from a letter that Judge Chohan found to be unreliable and contradictory.
12. I did not call upon Mr Diwnycz to respond to the submissions made by Mr Howard. Having heard the submissions made by Mr Howard, I informed the parties that there is in my judgement, no material error of law in the decision of Judge Chohan capable of affecting the outcome of the appeal. I informed the parties that I dismiss the appeal and that I would set out my reasons for doing so, in writing.
13. It was in my judgement open to Judge Chohan to dismiss the appeal for the reasons set out in the decision promulgated on 19th February 2020. I reject the claim made by the appellant that in reaching the decision Judge Chohan failed to make any findings in relation to the appellant’s *sur place* activities for the OLF. The appellant herself had only referred to being actively involved with the OLF in the most general and vaguest terms. Her account was devoid of any detail regarding her *sur place* activities that the First-tier Tribunal Judge could properly address. Her simple assertion that she was actively involved with the OLF relied upon what was said by Mr Tefere Gesifata Belay, the Chairman or the OLF Committee in the UK, in

his letter dated 3rd January 2020. He states that the appellant had wanted a letter “.. *That would verify her involvement in OLF .. political activities while living in Oromia, Ethiopia..*”. It forms no part of the appellant’s claim that she was engaged in any political activities while living in or visiting Ethiopia. The appellant’s claim is that she began to undertake activities for the OLF when she returned to Saudi Arabia in 2017, having witnessed the mistreatment of the Oromo people during her visit to Ethiopia.

14. In his letter Mr Tefere Gesifata Belay states:

“... Since her arrival in the UK [the appellant] has continued participating in public meetings and demonstrations organised by OLF against the Ethiopian government...”

Mr Belay refers to the appellant having attended, on 1st December 2019, an Oromo activist meeting in Bolton and, on 9th November 2019, an OLF Annual General Meeting in Birmingham. He refers to the demonstrations and meetings in the UK being open to the public and being published or shared on different social media outlets that include OLF websites. He states:

“Therefore, it is highly likely that [the appellant], who had already been targeted in Ethiopia, would come to the attention of the government and could be arrested upon her arrival in Ethiopia..”

15. The appellant does not claim that she had already been targeted in Ethiopia. It is in my judgement clear that Judge Chohan carefully considered the letter provided by Mr Tefere Gesifata Belay and relied upon by the appellant to support her claim. The appellant did not herself give evidence to the effect that she had been involved in any political activities in Ethiopia or that she had participated in public meetings and demonstrations organised by the OLF against the Ethiopian government. She did not even refer to having attended the two events referred to by Mr Tefere Gesifata Belay or provide any detail regarding her participation in those events.

16. In my judgement it was undoubtedly open to Judge Chohan to conclude that he could attach no weight to the letter from Mr Tefere Gesifata Belay. As Judge Chohan noted, when one stands back and considers the appellant's claim and the OLF letter, they do seem like two different claims. Insofar as the appellant relied upon the letter from Mr Tefere Gesifata Belay to support her claim to have been involved in *sur place* activities, Judge Chohan was not prepared to attach any weight to the letter, and the appellant could gain no support for her claim. The appellant had failed to establish, even to the lower standard, that she had engaged in *sur place* activities in the UK that would put her at risk upon return to Ethiopia.
17. In the circumstances, there is no merit to the sole ground upon which permission to appeal has been granted. It follows that I dismiss the appeal.

DECISION

18. The appeal is dismissed. The decision of First-tier Tribunal Judge Chohan promulgated on 19th February 2020 stands.

V. Mandalia

Date 16th March 2021

Upper Tribunal Judge Mandalia