



Upper Tribunal

(Immigration and Asylum Chamber)

Case No: UI-2023-004567

First-tier Tribunal No: HU/56715/2022

THE IMMIGRATION ACTS

Decisions and Reasons issued

On 8th of February 2024

Before

**Upper Tribunal Judge KEBEDE
Deputy Upper Tribunal Judge MANUELL**

Between

**Mrs JAHANARA BEGUM
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Coleman, Counsel
(instructed by TMC Solicitors Ltd)

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

Heard at FIELD HOUSE on 2 February 2024

DECISION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Seelhoff on 16 October 2023, against the decision of First-tier Tribunal Judge Meah who had dismissed the appeal of the Appellant against the refusal of her Article 8 ECHR human rights claim. The decision and reasons was promulgated on 30 August 2023.
2. The Appellant is a national of Bangladesh, born on 10 January 1967. She entered the United Kingdom on 24 March 2021 as a visitor, with leave to enter until 24 September 2021. On 1 September 2021 the Appellant applied for permission to stay on Article 8 ECHR grounds, which the Respondent refused on 20 September 2022.
3. Judge Meah found that the Appellant's claim that she had been the victim of domestic violence in Bangladesh at the hands of the son and daughter in law with whom she had been living was not credible. He found that the claim had probably been concocted to carve out a claim for the Appellant to remain in the United Kingdom. It was not supported by any independent evidence. The medical report merely recited what the psychiatrist had been told by the Appellant's daughter, her sponsor. The psychiatrist had not seen the Appellant in person and could not communicate with her directly. No independent interpreter had been provided. No weight could be given to the report.
4. The Appellant had various health conditions which she had suffered from for a number of years in Bangladesh before coming to visit the United Kingdom, such as her depression and anxiety following her husband's death in 2013. The Appellant had managed these conditions whilst living in Bangladesh for many years. There was no evidence that they had become more acute or heightened since she came to the United Kingdom, to the extent that treatment would not be available or inaccessible in Bangladesh.
5. Judge Meah further found that the Appellant owned a business and land inherited by her on the death of her husband, and that she was likely to be involved in running the business notwithstanding her claim to the contrary. The Appellant had been born in Bangladesh and had spent her entire life there, in three separate locations. A sufficiency of protection was available to her in the unlikely

event that her claims of domestic violence were true. She could if necessary make alternative accommodation arrangements. Thus the Appellant could reintegrate into Bangladesh on return without facing very significant obstacles. Paragraph 276ADE(1)(vi) of the Immigration Rules was not met.

6. Judge Meah then considered the Appellant's Article 8 ECHR family and private life claim outside the Immigration Rules, with reference to section 117B of the Nationality, Immigration and Asylum Act 2002. The judge found that the Appellant could maintain contact with her daughter who had moved to the United Kingdom in 2004, and who had only been to Bangladesh twice thereafter. The family relationship could continue as prior to the Appellant's visit to the United Kingdom. There was no evidence of more than normal emotional ties between parent and adult child. Any interference would not be disproportionate for either of them. The Appellant's stay had been precarious. The Appellant could not speak English. By necessary implication there was no evidence of any exceptional circumstances or other compelling factors.
7. First-tier Tribunal Judge Seelhoff considered that it was arguable that Judge Meah had erred in his treatment of the medical evidence. The issue of the independence of the interpreter used by the doctor had not been raised by the Respondent meaning that the Appellant had not been given the opportunity to answer the point. As to the assertion in the grounds that the judge had entered the arena with his questioning of witnesses, that was not necessarily supported by the examples cited, so that it might be necessary to review the record of proceedings.

Submissions

8. Mr Coleman for the Appellant relied on the grounds of onwards appeal and the grant of permission to appeal. The appeal had been dismissed mainly (it seemed) because the Appellant had been able to leave Bangladesh. That reasoning was unsustainable. As the grant of permission to appeal indicated, the treatment of the medical evidence had been inadequate. No weight had been given to the expert's report at all, when the Appellant's medical history

had supported her case. The issue of the independence of the interpretation had not been sufficiently explained. The fact that the Appellant's daughter had interpreted for the Appellant did not affect the report. The judge had found that the witnesses gave consistent evidence, yet refused to accept that their evidence was credible and had given no clear reasons for that. Counsel otherwise relied on the grounds of appeal generally, in accordance with his instructions. The judge's decision should be set aside for error of law.

10. Mr Clarke for the Respondent submitted that the Appellant's grounds had not been made out and no error of law had been shown. The Respondent's review had been clear about the alleged domestic violence, the supporting evidence for which the judge had considered in accordance with authorities such as JL (medical reports - credibility) China [2013] UKUT 145 (IAC). The judge had been entitled to find that the report simply recited the Appellant's story, and added nothing to her case. The report was not a diagnosis of Alzheimer's disease.
11. As to the assertion that the judge had entered the arena, no objectionable questions had been identified in the Appellant's grounds of appeal. Indeed, the questions asked by the judge identified in the grounds were helpful to the Appellant in the sense of giving her the chance to put her best case forward and to explain the gaps. No procedural unfairness amounting to a material error of law had been shown.
12. Mr Coleman wished to add nothing more by way of reply.

No material error of law finding

13. The tribunal reserved its decision, which now follows. The tribunal rejects the submissions as to material error of law made on behalf of the Appellant. In the tribunal's view, the errors asserted to exist in the decision are based on a failure to read Judge Meah's decision as a whole and to set the relevant facts into their proper context.
14. That context, familiar to both parties, hardly needed to be spelt out: a Bangladeshi widow living with her son and

daughter in law in the family home applied to visit her daughter in the United Kingdom. To obtain her visa she declared strong ties to Bangladesh, financial security and an intention to return. She declared her answers to be honest. Towards the end of her nominal permitted stay of up to six months she stated that she was a victim of long term domestic violence, was afraid to return, had nowhere to live in Bangladesh and applied for leave to remain. The application was refused by the Respondent and judge was required to examine the evidence put forward on behalf of the Appellant.

15. The evidence showed that the Appellant was receiving medical care in Bangladesh for a variety of ailments, in itself plainly at odds with her claim that she was being deprived of proper care and was physically and mentally abused. She is recorded as telling the psychiatrist that her daughter in law in Bangladesh took her to the doctor and obtained her medicines. As Judge Meah noted, the psychiatrist who prepared the expert's report could not communicate with the Appellant directly. No independent interpreter was provided. The doctor did not meet the Appellant, but saw her only by video link. The diagnosis of depression the psychiatrist made was one which had already been made in Bangladesh and was being treated there with standard anti-depressant medicines, as Judge Meah noted.
16. Judge Meah explained why he gave no weight to the psychiatrist's report. The depression diagnosis was not probative of domestic abuse. No new information was provided in the report and the story there recited was the same as that given by the Appellant and her daughter in their witness statements. Their story may have been consistent (as the judge accepted) but the judge gave proper reasons for finding that it was improbable. As already noted, that was in the context of the circumstances of the post arrival Article 8 ECHR application. The tribunal finds no error of law in Judge Meah's reasons for giving no weight to the psychiatrist's report.
17. Mr Coleman did not press the other main ground of appeal, the procedural unfairness claim, with any vigour, and rightly so. As Mr Clarke pointed out in his submissions, the questions asked by the judge were for clarification, as the

judge stated. They concerned obvious questions arising from the evidence which should have been covered in the witness statements but which were not. The tribunal finds that there was no procedural unfairness.

18. Accordingly the tribunal finds that there were no material errors of law in the decision challenged. The onwards appeal is dismissed.

Notice of decision

The appeal is dismissed_

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged.

Signed R J Manuell **Dated** 6 February 2024
Deputy Upper Tribunal Judge Manuell