



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/06385/2014

**THE IMMIGRATION ACTS**

Heard at London Field House  
On 20 January 2015

Decision Promulgated  
On 4 February 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

AAMNA SALEEM

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr D Sellword, instructed by Rashid & Rashid Solicitors

For the Respondent: Mr S Kandola, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals to the Upper Tribunal against the decision and reasons statement of First-tier Tribunal K Brown that was promulgated on 11 November 2014. Judge Brown dismissed the appellant's appeal against the immigration decision of 20 August 2014 to remove the appellant to Pakistan as an overstayer whose asylum and human rights claim had been refused.

2. Mr Sellwood relied on the grounds of application, which argued that Judge Brown had: (i) failed to make findings on material facts, (ii) had made irrational findings on material matters, and (iii) misdirected himself in law.
3. Mr Sellwood identified three key points that underpinned all these issues. First, the judge failed to give anxious scrutiny to all of the evidence. He submitted that Judge Brown failed to assess whether the appellant had been the victim of past persecution because of the beatings she claimed to have suffered from her brother and ex-fiancé that resulted in a miscarriage. The judge mentioned the incident in paragraphs 14 and 36 but made no findings in relation to whether he accepted the incident had occurred. In addition he did not give appropriate weight to the GP's record that had been provided that confirmed the incident. In a similar vein, Mr Sellwood reminded me that the appellant's husband had been the victim of serious harm on two occasions in November/December 2007. Although Judge Brown recorded these incidents in paragraphs 14 and 34 he made no finding in relation to the appellant's claim that they had been caused by her ex-fiancé. Mr Sellwood submitted that it was necessary for the judge to make findings on whether the appellant and/or her husband had experienced past persecution because, as per paragraph 339K of the immigration rules, past persecution is good evidence of likely future risk unless the country situation has changed materially.
4. Mr Sellwood's second point is that Judge Brown made a number of irrational findings. Mr Sellwood indicated that the judge had failed to consider the fact that a genuine refugee family might have to leave at separate times because of the nature of their circumstances. Therefore, it was irrational for the judge to have drawn an adverse conclusion from the fact that the appellant's husband had left Pakistan before her. In addition, Mr Sellwood said Judge Brown had ignored the different cultural factors that are present in Pakistani society and therefore could not draw the adverse inference he did in respect of the appellant not having encountered any difficulties from her brother or ex-fiancé whilst staying with her aunt and uncle. In a similar way, Mr Sellwood sought to undermine Judge Brown's finding that the newspaper adverts were not reliable. The judge had rejected the reliability of the adverts because it was not clear how the friend of the appellant's husband had recognised their pictures. Mr Sellwood pointed out that the judge had failed to take account of the fact that the appellant and her husband had stayed for some months with the friend and the appellant's name was printed underneath the pictures. As to the irregularities in the death certificates, Mr Sellwood argued that it was presumptuous to expect correct spelling in a country where English was not a first language.
5. The third factor relied on by Mr Sellwood relates to Judge Brown's reliance on how plausible the appellant's account appeared to him. There is substantial background country information to show that family disputes of the sort described by the appellant exist in Pakistan and that violence in such circumstances is not uncommon. Yet the judge rejects the appellant's account primarily on the basis that she could relocate, live discretely and give up any rights to property. In so doing, Judge Brown has avoided answering the question of whether the appellant would be at risk of persecution in Pakistan.

6. Mr Kandola replied by arguing that Judge Brown's assessment of the appellant's credibility was accurate. He found that the appellant was not to be generally believed. The grounds of appeal were, in his view, mere disagreement with the judicial findings. The judge had considered all of the arguments presented, including cultural factors, and had reached reasoned conclusions which were sustainable. Judge Brown analysed not only the appellant's accounts but also the documentary evidence. He gave good reasons for finding the documents not to be reliable given that there was inconsistent evidence about their provenance. Mr Kandola also submitted that even if there were minor errors in the assessment of credibility, the appellant and her family had a viable internal flight alternative and therefore the outcome of the appeal would have been the same.
7. As I indicated at the end of the hearing I find against the appellant because I am satisfied there is no legal error in Judge Brown's decision and reasons statement. I reserved my reasons, which I now give.
8. I am satisfied that the appellant's arguments are mere disagreement with the judicial findings made by attempting to pick apart the findings which in fact have to be read as a whole.
9. In paragraph 31, Judge Brown identifies that the appellant's account is not wholly credible. He continues by indicating that even if it were credible, it would be reasonable to expect the appellant to live safely in Pakistan because it was reasonable to expect her not to pursue the property claim since as she admitted she had no entitlement to any property.
10. In paragraphs 32 to 35, Judge Brown explains why he finds the appellant not to be credible. He identifies what can only be classed as "gaping holes" in her account. It is reasonable to find that a person who cannot give a coherent account is not generally credible. To understand why Judge Brown drew adverse inferences from the fact the appellant's husband came to the UK before her and from the fact that the appellant lived safely in Pakistan with her aunt and uncle, we have to read paragraph 35 it is necessary to see that he took into account the periods of time involved. The appellant lived safely in Pakistan for six years, of which she spent two and a half years with her uncle and aunt. The appellant's husband came to the UK in 2010 whereas she arrived in January 2014. It is clear that it was the substantial periods of time that led to the adverse inferences being drawn and this is perfectly reasonable.
11. As to the claimed beatings the appellant suffered from her brother and ex-fiancé, it is evident from paragraph 36 that Judge Brown did not accept the account. He relied on the fact that the appellant claimed she had miscarried but had not sought any medical attention whilst in Pakistan. Although she had mentioned the incident to her GP in the UK, her admission that she had not sought medical attention for something which would have been traumatic undermined her reliability. The fact Judge Brown also relied on the failure of the appellant's husband from making a claim for asylum at the earliest opportunity is also reasonable. Of course, the fact Judge Brown rejected this account meant he did not have to make a specific finding regarding past persecution. Similarly, the fact Judge Brown identified that the events involving the

appellant's husband in 2007 were immaterial to the current claim (see paragraph 34) meant that he need not consider that as an issue relevant to past persecution.

12. Turning to the findings in relation to the documents, the arguments relied on by Mr Sellwood fail to engage with the findings actually made. The arguments seek to say that an alternative approach would have been possible. That, of course, does not identify an error on a point of law. Judge Brown questions the reliability of the newspaper adverts because he had no plausible explanation as to how the appellant's brother and ex-fiancé would have been able to obtain posed photographs of the appellant and her husband. The adverts were small and the likelihood of being spotted by the friend of the appellant's husband was minimal. Reasonable suspicions arose because of the convenient timing of the adverts. The finding was open to Judge Brown on the evidence. The same can be said for the death certificates. The lack of details of the cause of death and the spelling errors undermine what confidence could be placed in the documents.
13. Because I find that it was open to Judge Brown to disbelieve the appellant's account because he has given clear and cogent reasons for coming to that conclusion, the remainder of the appellant's complaints fall away. She is not a refugee or a person otherwise in need of international protection.
14. I mention, for completeness, that no argument in relation to Judge Brown's assessment of the appellant's private and family life rights have been raised and therefore there is no need for me to make any findings in relation to those conclusions.

## **Decision**

The appellant's appeal to the Upper Tribunal is dismissed because there is no error on a point of law in the decision and reasons statement of Judge Brown.

His decision in relation to the appeal in the First-tier Tribunal is upheld.

Signed

Date **4 February 2015**

Deputy Judge of the Upper Tribunal