



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

Appeal Number: PA/06164/2018

THE IMMIGRATION ACTS

Heard at Field House

On 5 December 2018

**Decision & Reasons
Promulgated
On 11 January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON

Between

**MR S I H S
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE DEPARTMENT

Respondent

Representation:

For the Appellant: Mr W Rees, Counsel instructed by Marks & Marks Solicitors
For the Respondent: Ms Willocks-Briscoe, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan born on 15 May 1948 and appealed to the First-tier Tribunal against the decision of the respondent to refuse his protection claim in a decision dated 1 May 2018. In a decision and reasons promulgated on 12 September 2018, Judge of the First-tier Tribunal K Moore dismissed the appellant's appeal on all grounds.
2. The appellant appealed with permission on the grounds that:
 - (1) the judge erred in his assessment of the medical evidence;

- (2) the judge failed to adequately consider Article 8 and specifically had failed to consider paragraph 276ADE, the issue of the appellant's integration and Section 117A to Section 117D of the Nationality, Immigration and Asylum Act.

Discussion

3. The respondent in his Rule 24 notice relied on the decision and reasons and submitted that the judge correctly directed himself and that it was not incumbent on the judge to expressly address paragraph 276ADE (**VHR (unmeritorious grounds) Jamaica [2014] UKUT 00367**).
4. Mr Rees, whilst he did not expressly withdraw the appeal as he had no instructions to do so, submitted that he could add nothing further to the grounds and quite sensibly conceded that there were difficulties with both the grounds of appeal and the grant of permission (which had stated that arguably the judge had not dealt with Article 8).
5. Mr Rees conceded before me, that the judge from paragraphs [39] to [42] addressed Article 8, including addressing Section 117B. Although the judge did not make any specific findings on paragraph 276ADE he was not required to do so. It was not in dispute that the only grounds of appeal was on human rights, outside of the Immigration Rules. Whilst that consideration should be considered from the prism of the Immigration Rules, contrary to the grounds there was nothing that was not adequately considered by the judge in his detailed consideration of the issues including the appellant's medical conditions. There is, for example, no challenge to the finding that there is treatment available in Pakistan for the appellant's conditions. Those were findings that were available to the First-tier Tribunal.
6. Although the grounds of appeal also argued that the judge failed to deal adequately with the medical evidence Mr Rees again accepted that even if there was an error it would not be material given the totality of the findings made by the First-tier Tribunal.
7. Although the grounds assert that the judge found there was a lack of reliable medical evidence, that is to misrepresent the judge's findings where he stated, at [39], that there was evidence given and provided by the appellant with regard to his heart condition. There was no error, material or otherwise, in the judge going on to find that there was no reliable evidence from a consultant that the appellant would be unable to fly as claimed. The evidence provided was in the form of a GP report. The judge had before him a letter from the appellant's GP dated 13 November 2017 indicating that the patient was elderly and had a history of heart condition for which he takes medication. There was a further letter dated 9 September 2018, the day before the hearing, which stated that the patient had dizzy spells and headaches and had had a CT scan two days previously for which he was awaiting results and that his health condition should be considered.

8. The judge properly directed himself that there was a high threshold in relation to Article 3 and there is no sustainable challenge to the judge's findings in relation to the medical evidence and the appellant's condition, findings which were available to him. There is no material error of law established in either ground which amount to no more than a disagreement with the judge's sustainable findings.
9. The decision of the First-tier Tribunal does not disclose an error of law and shall stand. The appellant's appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 28 December 2018

Deputy Upper Tribunal Judge Hutchinson

TO THE RESPONDENT
FEE AWARD

The appeal is dismissed and there can therefore be no fee award.

Signed

Date: 28 December 2018

Deputy Upper Tribunal Judge Hutchinson