



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: PA/12492/2018  
PA/12493/2018

**THE IMMIGRATION ACTS**

Heard at Manchester  
On 12 March 2019

Decision & Reasons Promulgated  
On 1 May 2019

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

(1) MARWA JABEEN  
(2) IQRA TARIQ

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellants: Mr M Maksud, instructed by International Immigration Advisory Services

For the Respondent: Mr A Tan, Senior Presenting Officer

**DECISION AND REASONS**  
(Decision given orally on 12 March 2019)

**Introduction**

1. The appellants are sisters, born in 1995 and 1998 respectively, and are both nationals of Pakistan. They entered the United Kingdom on 2 May 2010 as accompanied children of their mother, who at that time held leave to enter as a visitor. On 5 October 2010 the appellants were named as dependants on their mother's asylum claim. This claim was refused on 3 November 2010 and a subsequent appeal to the

First-tier Tribunal was dismissed in a decision of Judge Edwards promulgated on, or around, 7 January 2011.

2. The protection claim advanced by the family at that stage was a fear of the appellants' father (their mother's husband) in Pakistan. In a lengthy decision, Judge Edwards rejected the core of the evidence put forward in support of this claim (see para 37 of Judge Edwards' decision). In September 2012, the appellants were served with notices identifying them as overstayers.
3. The appellants attained majority in 2013 and 2016, respectively. However, it was not until 17 April 2018 that they each made a protection claim. These claims were pursued on the same basis as the claim pursued by their mother in 2010 and 2011 (on which they were dependents). As already indicated, the First-tier Tribunal rejected the truth of the evidence their mother put forward in support of that claim.
4. The appellants claims were each rejected by the Secretary of State in decisions of 16 October 2018. The appellants appealed to the First-tier Tribunal and those appeals were heard on the same occasion by Judge Davies and dismissed in a single decision promulgated on 6 December 2018.

#### **Decision of FtT (6/12/18)**

5. The First-tier Tribunal took the findings of Judge Edwards as its starting point (as required by the starred Tribunal decision of Devaseelan [2003] Imm AR 1, and the Court of Appeal's decision in AA (Somalia) [2007] EWCA Civ 1040). It was, in particular, acknowledged by both representatives before the First-tier Tribunal that the starting point in the instant appeal should be the findings made in the appellants' mother's appeal (see paragraph 27).
6. Moving on, the First-tier Tribunal found as follows at paragraphs 54 to 56 of its decision:
  - "54. ... it is wholly unbelievable that one of the appellants would be left in the care of neighbours whilst her mother and the other appellant came to the United Kingdom on a visit that their father would not be aware of that. I am satisfied applying the lower standard of proof that both the appellants and their mother have fabricated an account of having a genuine fear of being killed or seriously harmed by their father. I do not accept that the appellants cannot go back to live in Pakistan with their father. Their lack of credibility also leads me to conclude that on the lower standard of proof they have other relatives in Pakistan.
  55. It is clear the appellants' family have attempted to enter the United Kingdom on visit visas when they had no intention of returning to Pakistan. The appellants' mother perpetrated a deception on the immigration authorities in that regard and it seems to me on the basis of the evidence that they have utilised the ability to visit relations in the UK to circumvent Immigration Rules ...
  56. I have taken account of the medical evidence that has been produced regarding the appellants' health issues and their supposed risk of suicide. I do not accept it

is credible that their condition in this regard comes about because of treatment meted out to them by their father. It may well be that their condition arises from the uncertainty of their status in the UK but it is clear that even though the appellants' mother and siblings have leave to remain they can return to Pakistan as a family unit. I do not accept that they are estranged from their father as claimed ...

58. I also take into account the delay which took place before the appellants sought international protection in their own right in the United Kingdom that is yet further evidence they have sought to utilise the immigration system in the UK to remain here when they had no right to do so ...".

### **Appeal to the Upper Tribunal**

7. The grounds of appeal pursued before the Upper Tribunal are twofold:
- (1) The First-tier Tribunal failed to give lawfully adequate reasons for rejecting the truth of the witnesses' evidence; and
  - (2) In considering Article 8 ECHR the First-tier Tribunal failed to consider whether the appellants met the requirements of paragraphs 276ADE (iv) of the Rules, and instead undertook a single stage process under Article 8 rather than the two-stage process required by the case law.
8. Permission to appeal was granted by First-tier Tribunal Judge Welsh, in a decision sent to the parties on 1 February 2019.

### **Decision and Discussion**

9. Taking the grounds in turn, whilst I accept that the reasons given by the First-tier Tribunal would lack the required thoroughness if this were an appeal in which there were no previous findings of fact to provide a starting point for any consideration, that though is not the case here. The context within which the reasons are given in the instant case is important.
10. This is a case in which there has been a previous comprehensive rejection of the truth by a First-tier Tribunal of the account tendered by the appellants' mother on, to all intents and purposes, the same claimed factual matrix. It is in this context that an analysis of whether the FtT provided adequate reasons must be set. Given the starting point for such consideration I conclude that the First-tier Tribunal has provided sufficient reasons for rejecting the account given by the appellants. In truth, there was nothing of substance put before the instant First-tier Tribunal which was capable of leading it to diverge from the findings of Judge Edwards on the protection claim.
11. In his submissions, Mr Maksud asserts that it was unlawful for the First-tier Tribunal to take account of the delay by the appellants in claiming asylum given that they were previously dependent on their mother. However, as already identified, the appellants reached the age of majority in 2013 and 2016 respectively, having been

served with notices of identifying them as overstayers in 2012. There was clearly a substantial delay (many years) by each of the appellants in bringing protection claims independently of their mother and I find that the First-tier Tribunal was fully entitled to take account of such delay when coming to its conclusions.

12. Turing next to the challenge to the First-tier Tribunal's findings on the Article 8 ground. I accept that any Tribunal determining such ground could be expected to undertake the two-stage process, the first stage being an assessment of whether an appellant meets the requirements of the Immigration Rules - the Rules being the Secretary of State's view of where the public interests lies. In the instant case the only provision of Rules relied upon by the appellants is paragraph 276ADE (vi). In order to succeed under this provision, the appellants were required to demonstrate that there would be very significant obstacles to their integration into life in Pakistan.
13. At the hearing today I invited Mr Maksud to identify the evidence put forward to the First-tier Tribunal in support of the submission there would be very significant obstacles to the appellants integration into life in Pakistan. In response Mr Maksud observed that the appellants would have no family to assist them in Pakistan and that their father would ill-treat them if they returned. This though is exactly the aspect of the appellants case that was rejected by the First-tier Tribunal when considering the protection claim. The First-tier Tribunal specifically rejected the appellants contention to be estranged from their father and it was also concluded that the appellants could return as a family unit to Pakistan. The protection claim was, of course, determined on a lower standard of proof to that applicable to the article 8 ground.
14. In such circumstances, given the rejection of the evidence which underpinned the only ground under the Immigration Rules relied upon by the appellants, I do not accept that it is a material failure by the Tribunal not to consider whether the appellants met paragraph 276ADE (vi). In my view, there was no possibility, on the findings made, of the appellants successfully establishing that the requirements of this, or any other of the Immigration Rules, had been met. That being the only substantive challenge to the Article 8 decision, I also reject that ground.
15. In conclusion, I find that the First-tier Tribunal's decision is an adequate and lawful response to the evidence that was put before it, given that there had been a rejection of substantially the same protection case by the First-tier Tribunal in 2010. I therefore dismiss this appeal.

### **Notice of Decision**

The appeals to the Upper Tribunal are dismissed.

Signed:

*Mark O'Connor*

Date 29 April 2019

Upper Tribunal Judge O'Connor