



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12701/2019(P)

THE IMMIGRATION ACTS

Heard Remotely at Manchester Piccadilly IAC
On 21 August 2020

Decision & Reasons Promulgated
On 25 August 2020

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

RB

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms M Cleghorn, instructed by Halliday Reeves law Firm
For the Respondent: Mr C Bates, Senior Presenting officer.

DECISION AND REASONS (P)

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Skype (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. At the conclusion of the hearing I reserved my decision and reasons, which I now give. The order made is described at the end of these reasons.

1. The appellant, who is an Iranian national with date of birth given as 3.1.91, has appealed to the Upper Tribunal with permission against the decision of the First-

tier Tribunal promulgated 27.4.20, dismissing on all grounds her appeal against the decision of the Secretary of State, dated 2.12.19, to refuse her claim for international protection.

2. I have carefully considered the decision of the First-tier Tribunal in the light of the submissions made to me at the remote hearing, the grant of permission, and Ms Cleghorn's well-drafted grounds of application for permission to appeal to the Upper Tribunal.
3. The grounds of application for permission to appeal first argue (G1) that the First-tier Tribunal placed undue reliance on discrepancies between the Screening Interview and other evidence, causing the Tribunal to have grave concerns as to the reliability of the evidence adduced in support of the appellant.
4. It is also argued (G2) that the judge failed to consider the supporting evidence of MK, that impermissible findings were made in relation to the appellant's alleged hospitalisation (G3); that the judge failed to apply the HJ (Iran) principle to consider how the appellant would behave on return to Iran (G4); and failed to consider material evidence, in particular the appellant's claim that she had been raped (G5).
5. Permission to appeal was granted on limited grounds by First-tier Tribunal Judge Page on 22.5.20. In respect of G1, Judge Page considered that the judge's remarks were 'cursive'; in respect of G2 it was considered arguable that the judge gave inadequate consideration to the evidence of MK and, if the evidence was not accepted or given very little weight, the judge failed to give adequate reasons. In respect of G4, at [27] the judge had accepted that if she had come to the attention of the authorities in 2017, as alleged, she would be at risk on return. It was considered arguable that, given it was accepted that the appellant was a member of the Iran National Front, the judge did not consider how she would manifest her political opinions on return to Iran. In respect of G5, it was considered arguable that the judge failed to consider material evidence in stating at [29(1)] that the appellant had given no real detail of the treatment she had received, despite having noted at [16] the appellant's core account that she had been raped during a three-day detention.
6. Permission was refused in respect of G3, on the basis that the claim as to hospitalisation for spinal surgery was a credibility issue rather than a medical finding, as alleged.
7. At the outset of the hearing, Ms Cleghorn sought to renew the application for permission on G3, arguing that it was "part and parcel" of the overall grounds and should be considered. I reserved my decision on that, but on reflection agree that G3 should also be considered in the error of law considerations.

8. In relation to all the grounds, it is important to note at the outset that at [5], again at [28], and again at [31] the judge confirmed that all evidence had been taken into account in the round before findings were made. At [31] the judge explained that anxious consideration had been given to the “considerable volume of evidence,” and that as much credit as the judge could was given to the limited consistency of the appellant’s account. The also judge stated, “I also take account that at the SI the Appellant had only just arrived in the UK and that the interpreter used for that interview was present only by telephone.”

Ground 1

9. The strongest of all five grounds is that in relation to G1 and the alleged over-reliance of the judge on the appellant’s account in the SI. As Ms Cleghorn submitted, several of the credibility findings can be traced back to the concerns about the SI.
10. The judge summarised the appellant’s case given in the SI. I’ve also looked carefully at the SI, though the handwriting is a little difficult to read. At 2.1, in reply to the question about medical conditions, she said that she only had injuries from being beaten up and referred to an injury to her back for which she had an operation. At 2.5 she said that she had been sexually assaulted by rape when arrested for a week on 14.7.17.
11. At 4.1 of the SI she stated that she was involved in political activity, organising demonstrations, as a result of which she was arrested on 14.7.17 and imprisoned for one week, during which she was abused, sexually assaulted and raped. In the Preliminary Questionnaire she relied on political activity, stating that she had been arrested and imprisoned in Iran during which she was subjected to physical, sexual and verbal abuse. She specifically referred to back pain from an injury in prison. As has been noted it was in a medical appointment some two weeks later that there was any mention of attending a demonstration in 2018. In her later asylum interview (AIR) she referred to attending another demonstration in August 2018, during which she was hit on the back, sustaining a spinal fracture requiring an operation. However, she stated she was only in hospital a few hours before being discharged home.
12. Within the various sub-paragraphs of [28] the judge observed that there was no reference in the SI to the August 2018 demonstration or injuries sustained then. It appears to me that whilst the appellant referred in the SI to a back operation, she related it to the 2017 detention and mistreatment. More significant is that the present claim is that the catalyst for her departure was the August demonstration, after which her home was raided. However, in the SI she relates the ransacking of her home in August 2018 in her absence but made no mention of that raid arising after attending a demonstration, or of being in hospital as a result of an injury sustained at the demonstration. In his submissions, Mr Bates

made the point that whilst an appellant may be expected to give brief details, she in fact gave quite a bit of detail at 4.1 and 4.2. I agree with the submission that it is significant that when specifically for the reason why she was forced to leave Iran, she made no mention of the August 2018 demonstration and its aftermath. The appellant's later account was that it was these events that prompted her urgent departure. I consider that the judge was entitled to regard the omission of the August 2018 demonstration and hospitalisation as an anomaly undermining her account.

13. At [28.3] the judge pointed out that the name given in the SI of the political entity for which she organised demonstrations was different to that given by the witness MK.
14. I am satisfied that after considering the evidence as a whole, as the judge confirmed on several occasions had been done, the judge was entitled to take account of significant discrepancies or inconsistencies between the appellant's initial account in the Screening Interview and her later accounts, whilst at the same time making allowance for the fact that the appellant had only just arrived in the UK and that the interpreter was working via telephone. Whilst the Screening Interview (Screening Interview) is intended to be a brief initial summary of the claim, the appellant can nevertheless be expected to be truthful. There is a world of difference between a brief SI in which some details are not given and specific details that were provided but which are inconsistent with the appellant's later accounts. I am satisfied that the appellant could be reasonably expected to at least mention the primary facts, described by Mr Bates as the "stripped down account", which prompted her departure. She was not unable to give considerable detail but the account she gave then was significantly different to that given later and not merely by the extent of detail. I am satisfied that the judge was entitled to describe these matters as troubling in the overall assessment of credibility. No error of law is disclosed.

Ground 2

15. I am not satisfied that the judge failed to take into account the corroborative evidence of the witness MK, the leader of the party in the UK. The evidence of this witness was summarised at [18.1] and [18.2].
16. The relevance of MK was limited and could not bear specifically on the alleged events in Iran, even though he was adduced to confirm the appellant's asserted membership of the party in the UK. Although the judge had some concerns as to how MK came to be involved and at whose behest, those concerns were observations only and did not part of the credibility findings.
17. It is clear from the decision that the judge took full account of MK's evidence and it was addressed at several points. For example, he judge pointed out the discrepancy as to the name of the organisation referred to above. At [29.2] it was

noted that MK gave a different date for the demonstration in his witness statement, asserting there that it took place in 2017. At [29.6] the judge made an adverse credibility finding as the timescale within which the appellant was issued a membership card by MK. At [29.5] the judge set out a variety of concerns about the shared narrative involving MK. Whilst the judge accepted the membership card at [26], it is not the case that the judge accepted that the appellant was a genuinely involved in political activity for the party in the UK. This conclusion was reached after taking account of MK's evidence.

18. In summary, I find that much of this ground is not an identification of an error of law but a disagreement with the findings and an attempt to reargue the appeal. It is not necessary for the judge to refer to every aspect of the evidence, provided it is clear that the evidence has been taken into account in the round. I am satisfied that it was.

Ground 3

19. The claim that the judge made impermissible findings in relation to the appellant's claim of hospitalisation for an operation and then discharged home within hours, I agree with the judge refusing permission that the judge was not expressing any medical opinion but considering the claim in the context of the evidence overall as not credible. No error of law is disclosed.

Ground 4

20. I do not accept that the First-tier Tribunal ignored the HJ (Iran) consideration. The decision comprises extensive and detailed adverse credibility findings. At [29.7] the judge found that the appellant's account of her involvement with the party in Iran lacked meaningful detail and her rationale for becoming involved again in 2018 was not convincing to the lower standard of proof. At [29.9] the judge concluded that the appellant's account had been embellished and rejected the claim to have attended any demonstration. In essence, her entire factual claim as to events in Iran before leaving in 2018 was rejected, for the reasons clearly set out in the decision. At [32] the judge concluded that the appellant had failed to prove, even to the lower standard of proof, that she was involved with the party in Iran, or that she had been arrested and detained in 2017, or that she had attended a further demonstration in August 2018. It was not accepted that the appellant came to the attention of the authorities at any time, or that her home had been raided on any occasion.
21. In relation to the *sur place* activities, these were carefully considered at [34] onwards but found to lack detail and credibility, despite a careful examination of the evidence, including the artwork the appellant claimed to have created for the party. The judge concluded that there was no social media evidence that was genuine or proven to be in the public domain. At [37] the judge did not accept that she had posted anti-Iranian regime messages on Facebook or that such

would be known to the authorities on her return to Iran, so that she was not at risk. In the circumstances, there was no basis for there being any risk on return.

22. In response to Mr Bates' submissions, Ms Cleghorn effectively accepted that this ground could not be made out on the findings made. However, she related it back to the alleged over-reliance on the SI, which I have addressed above. Summarising her position, Ms Cleghorn submitted that if one removes those adverse credibility findings which relate to or arise out of the SI, there is very little left on which to make adverse credibility findings. However, for the reasons set out herein, I am not satisfied that the judge made an over-reliance on the SI or even expected the appellant to provide a detailed account at that time. I have already noted that the judge took into account the difficult circumstances of the SI. I am satisfied that no error of law is disclosed.

Ground 5

23. Whilst a serious allegation, ground 5 adds little to the appellant's claim of an error of law on the part of the First-tier Tribunal. At [29.1] the judge found it not credible that the appellant had told her family nothing of what happened to her or even where she had been after a week of alleged detention and mistreatment causing injury in addition to sexual abuse and rape. Ms Cleghorn submitted, not unreasonably, that reticence to recall a traumatic event such as rape may well extend to other aspects of the same incident. However, whilst a victim of rape may be reticent about such matters, for obvious reasons, as Mr Bates accepted, the judge's concern was that nothing at all was said to the family, not even about where she had been for a week. I further note that the appellant was perfectly willing to disclose in the SI and later accounts that she had been sexually abused and raped, but at [29.1] the judge noted the absence of detail of her account, not just in the SI but in her evidence overall, such as where she was detained or anything particular about the treatment she received. It was the vague generality of her account that gave the judge concern as to her credibility. At no point does the judge criticise her for not detailing the nature of the rape allegation. It is not accurate to suggest that the judge ignored or failed to note that she claimed to have been raped. In large part, this ground is a disagreement with the decision and an attempt to reargue the point, suggesting, for example, that rape would explain why she told her family nothing, and that independent evidence proves that the demonstration did take place. In the premises, I am satisfied that all of these adverse credibility findings were open to the judge on the evidence and for which cogent reasoning has been provided.
24. In the circumstances and for the reasons set out above, I find no material error of law in the decision of the First-tier Tribunal so that it must be set aside.

Decision

The appeal to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands and the appellant's appeal remains dismissed on all grounds.

I make no order for costs.

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 21 August 2020



Anonymity Direction

I am satisfied, having had regard to the guidance in the Presidential Guidance Note No 1 of 2013: Anonymity Orders, that it would be appropriate to make an order in accordance with Rules 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 in the following terms:

“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 his family. This direction applies to, amongst others, both the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings.”

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 21 August 2020

