



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Appeal No: UI-2004-
000655
First-Tier No:
HU/58451/2022
LH/05006/2
023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 23rd April 2024**

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

MRS GHULAM SUGHRAN
(anonymity order not made)

Respondent

For the Appellant: Mr Jazmi, Counsel, instructed by Deo Volente Solicitors.

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer.

Heard at Field House on 4th April 2024

DECISION AND REASONS

Introduction

1. At the hearing I pointed out to the parties there was no apparent reason for anonymity and both agreed.
2. The appellant is a national of Pakistan, born on 1 January 1963. She came to the United Kingdom on 14 July 2014 on a multi-visit Visa, valid from 17 June 2014 to 17 December 2014. She re-entered on 25 July 2015 and again on 18 June 2016 on a visit Visa valid to 14 July 2017. She entered again in May 2018 and June

2019 on a Visa valid until 14 March 2020. She then re-entered on 9 April 2021 on a visit Visa valid from 16 March 2022 to 16 March 2022.

3. On 24 September 2021 she applied for leave to remain. In support of her application she provided a psychologist report dated 9 October 2022 and a letter from a Dr Khan dated 13 September 2021, along with other medical evidence. Dr Khan said she suffered from GORD and depression. It was said she had an established family life and that she had developed a private life whilst here.
4. Her application was refused on the 31 October 2022. As her children were leading independent lives her claim was considered under the private life route only. Under paragraph 276 ADE of the immigration rules she had not been here the necessary 20 years and the respondent did not see very significant obstacles to her integration back into life in Pakistan.

The First-tier tribunal

5. First tier Tribunal Judge Young-Harry, following a hearing on 15 November 2023, dismissed the appellant's appeal. The judge heard from the appellant and her five children settled here. The appeal bundle contained medical evidence including the report from Dr Altawil.
6. Dr Altawil's report was prepared on the instructions of the appellant solicitors and is dated 9th October 2022. It stated she had severe PTSD and that she struggled to form and maintain close relationships. It was noted that she had family members still living in Pakistan. He stated the appellant has been under his care since 9 December 2021 and had been attending face-to-face appointments every month. He records that she has three sons and two daughters in the United Kingdom and that her husband died in August 2014. She has five grandchildren. He refers to her husband's unexpected death while she was visiting in the United Kingdom. He refers to her subsequent visits and that the appellant was hospitalised in Pakistan for two weeks with Covid.
7. The judge accepted family and private life had been established. Applying the Razgar sequential approach, the judge concluded the respondent's decision was proportionate. The judge found the appellant would be familiar with the culture, language and way of life in Pakistan, having spent most of her life there. The judge found she would be assisted by additional paid care, regular visits from her children here and input from the appellant's mother and sister in Pakistan.
8. The judge referred to the medical evidence submitted in support of her appeal. The post-traumatic stress disorder referred to was attributed to her husband's death and the effects of the Covid 19 infection as well as concerns about returning to Pakistan.
9. The judge accepted the appellant had mental health difficulties but these could be treated in Pakistan. Her children explained that with family and work commitments they could not visit her often. The judge referred to the section 117 B public interest considerations, noting that the appellant did not speak English and that her leave had always been precarious.

The challenge

10. Permission to appeal to the Upper Tribunal was granted by First tier Tribunal Judge Roger. The grant accepts that it is arguable the judge failed to place adequate weight on the medical evidence or give adequate reasons why the conclusions had not been accepted.
11. The grant of permission found it was arguable the judge erred at paragraph 13 and 17 of the decision in dealing with paragraph 276 ADE (1)(vi) of the immigration rules, the very significant obstacles to integration test, and the medical evidence of Dr Altawil.

The hearing

12. Mr Jazmi relied on the grounds upon which permission was granted as well as his skeleton argument. He said the judge had been presented with unchallenged medical evidence. If the judge did not agree with that evidence there was an obligation to give reasons. He submitted the judge did not adequately consider the medical treatment that would be available in Pakistan and the circumstances of the appellant's mother and sister and why they were not in a position to help.
13. Ms Everett continued to oppose the appeal, submitting the determination indicates the judge clearly have read the medical evidence. I was referred to paragraph 13 and 15. She said the judge relied upon the lack of evidence that care was not available in Pakistan.
14. In reply, the appellant's representative referred me to paragraph 2 and 3 of the skeleton argument and the diagnoses of post-traumatic stress disorder.
15. Her representative suggested that if an error of law were found the matter should be remitted to the First-tier Tribunal. This would give the appellant opportunity to obtain up-to-date medical evidence. Ms Everett said she had no strong views as to the disposal.

Consideration

16. The thrust of the appeal in the First tier was that the appellant should be allowed to remain on the basis of her mental and physical health and her reliance on her children here. At paragraph 15 the judge refers to the report from Dr Altawil and it states she has been diagnosed with moderate to severe depression, anxiety and post-traumatic stress disorder. The latter is attributable to her husband's death in 2014 and having contracted Covid, as well as concerns about returning to Pakistan. The doctor was of the opinion it would not be advisable to separate the appellant from her children here. At paragraph 16 the judge refers then to a letter from Dr Das dated 10 October 2022 as supporting the findings of Dr Altawil.
17. The judge accepted the appellant has mental health difficulties but concluded these could be treated and managed in Pakistan. At paragraph 17 the judge found that the medical evidence did not support the claims made by the appellant's son she could not do anything for herself and was unable to move around because of arthritic knees.

18. Paragraph 18 of the determination indicates the judge, in the absence of a presenting officer, asked the appellant's son if enquiries had been made about care facilities in Pakistan and he indicated they had not.
19. The Upper Tribunal grounds refer to the judge's comments at paragraph 17 about her ability to care for herself. The grounds argue this is contrary to the evidence contained in the report from Dr Altawil at section 6.1, who suggested she could not do basic things because of breathing problems and weakness and refers to a lack of independence. Reference is then made to section 7 of the report where the doctor states she would struggle without the physical and emotional support of her family here.
20. The argument is that the judge's finding that she could care for herself is contrary to the medical evidence provided. The grounds suggest the judge at paragraph 9 accepted she was dependent upon her family. That paragraph however was addressing whether family life within the meaning of article 8 existed, with the judge stating 'I accept, on the evidence, the appellant relies on her children in the UK for all her needs, financial, emotional and her day-to-day needs.' The grounds also state that the appellant's mother is almost 90 and she and the appellant sister live in Karachi, a considerable distance from the appellant's home.
21. Mr Azmi has provided a skeleton argument in which he refers to Y & Z (Sri Lanka) v SSHD [2009] EWCA Civ 362. Lord Justice Sedley at para 11 and 12 where it was said a tribunal must give reasons for rejecting an expert evidence.

Conclusion.

22. Having regard to the arguments advanced I do not find it has been demonstrated that the decision of First tier Tribunal Judge Young-Harry materially errs in law.
23. It is important to consider the judge's determination in its entirety. It would be wrong to forensically examine the decision line by line and focusing upon aspects without looking at matters in the round
24. To put matters in context, the judge will have seen the reasons for refusal letter which refers to the medical evidence submitted on behalf of the appellant. It suggests the reports are based only on what the appellant told the doctors and was not supported by evidence from a GP or other National Health Service professional. Reference was made to the letter from the GP's surgery to the effect that she was stable on medication and there was no reference to post-traumatic stress disorder or physical health restrictions. The refusal letter then quotes extracts from the Home Office Country of Origin information report about healthcare facilities in Pakistan and that the appellant's medication is available there. The complete paper is dated September 2020 and is contained in the appeal bundle.
25. In paragraph 9 of the decision judge is considering whether family life within the meaning of article 8 has been demonstrated. The judge found there were more than the normal emotional ties between the appellant and her and children. It is in this context that the comment about the reliance upon them was made.

26. At paragraph 13 the judge gives reasons why the paragraph 276 ADE (1)(vi) threshold was not met. The judge comments that the appellant spent most of her life in Pakistan and will be familiar with the way of life there. The judge refers to the possibility of paid care and visits to help her adjust, as well as input from her mother and sister in Pakistan. At paragraph 15 the judge refers to the report from Dr Altawil and the diagnoses of post-traumatic stress disorder. The judge also refers to the letter from Dr Das. The judge accepted she had mental health difficulties but found that her condition can be treated and managed in Pakistan.
27. The judge clearly has had regard to the medical evidence submitted. The judge sets out aspects of Dr Altawil's report. The doctor also refers to the letter from Dr Das. In light of this evidence the judge accepted she has mental health difficulties. However, the judge concludes these can be treated in Pakistan. This was a conclusion open to the judge bearing in mind the country information provided.
28. The claim being put forward was that the appellant not only had emotional needs but physical needs. The judge addresses this at paragraph 17 and rejects the evidence of her son, Mr Shah. The reason given is that the medical evidence does not support his claim that she is unable to care for herself. Such a conclusion is not contrary to the evidence provided.
29. There was a letter from a Dr Khan dated 13 September 2021 which the judge did not specifically comment on. This letter was referring to her ability to travel and makes general comments about her health. I do not find it materially adds to the other medical evidence referred to and do not find the omission of comment renders the decision defective.
30. In summary, I find the judge has identified the relevant issues, highlighted the key aspects of the claim and the evidence and has reached a conclusion which was open to them. I find no material error demonstrated. Consequently, that decision shall stand.

Decision

No material error of law has been demonstrated in the decision of First-Tier Tribunal Judge Young-Harry dismissing the appellant's appeal.

Francis J Farrelly

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

4th April 2024