



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

Appeal Number: AA/02469/2014

THE IMMIGRATION ACTS

**Heard at Manchester
On 11th November 2014**

**Determination Promulgated
On 11th November 2014**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**BK
(Anonymity direction made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Hussain of Lei Dat & Baig solicitors

For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals a decision of the First-tier Tribunal dismissing his appeal against a decision to remove him subsequent to a refusal by the respondent to grant him international protection.
2. An application for permission to appeal was filed out of time. Although permission was granted, no decision to extend time was made despite such having been requested. The grant of permission is thus provisional. I extend time.

3. The judge granting permission did so on the grounds that it was arguable that the interview by the respondent of the appellant was on the basis that the appellant (an Iranian national) claimed to be a supporter of the KDP (Iraq Party) as oppose to a supporter of the KDPI of Iran. The grounds assert that the original of the interview record was handwritten and difficult to read; that the typed version was only received shortly before the hearing and it had thus not been possible to read this back to the appellant despite it having been requested many months earlier; that the judge had erroneously concluded that the appellant was confused about the KDP (Iraq) and the KDP Iran rather than taking account of the problems with the original interview.
4. It is notable that the emblem described by the appellant is the emblem of the KDPI and yet he is erroneously criticised for failing to describe the emblem of the KDP. The references to the KDP and the KDPI are recorded throughout the interview record with what appears to be interchangeable use. It is difficult to fail to accept that the appellant would have been confused as to which party the interviewer was asking him questions. His answers as to the leader of the KDPI and the description of its emblem were clearly correct and yet these have been held against him as incorrect answers as regards the KDP. The interview was not recorded – although I understand from Mr Hussain that a request for the interview to be recorded had been made. Certainly on the face of it the interviewer used the use of the initials KDP and KDPI interchangeably.
5. The First-tier Tribunal judge in dealing with this appeal on the basis that it was the appellant that was confused as to which party he supported or belonged has erred in failing to consider the interview record and the obvious confusion engendered by the manner of questions asked.
6. There is a clear error in law by the judge in failing to engage with or even acknowledge the evidence of the appellant and the confusion by the interviewer.
7. I set aside the First-tier Tribunal determination and remit it to the First-tier Tribunal to be heard afresh.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remit the hearing of the appeal to the First-tier Tribunal to be heard afresh. Not to be heard by First-tier Tribunal judge Mulvenna

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Upper Tribunal Judge Coker

Date 11th November 2014