



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/03347/2015**

THE IMMIGRATION ACTS

Heard at: Manchester

**Decision and Reasons
Promulgated**

On: 18th November 2015

On: 30th November 2015

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Abu Miah

(no anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Timson, Counsel instructed by Arshad & Co

For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Bangladesh born on the 8th March 1957. He appeals with permission¹ the decision of the First-tier Tribunal (Judge Lloyd-Smith) to dismiss his appeal against the Respondent's decision to remove him from the United Kingdom pursuant to s10 of the Immigration and Asylum Act 1999. That decision followed the rejection of the Appellant's claim to asylum.

¹ Permission granted by First-tier Tribunal Judge Kelly on the 16th June 2015

2. The Appellant claimed asylum on the 23rd September 2014. Over the course of two interviews he advanced a claim of feared persecution for reasons of his political opinion. He claimed to be an active supporter of the Bangladesh National Party who had suffered threats, extortion, attack, arrest and torture by, *inter alia*, police acting at the behest of the Awami League. He stated that the police in Bangladesh have lodged a murder case against him which is ill-founded and politically motivated.
3. The Respondent rejected the Appellant's claim as not credible. The 'reasons for refusal' letter identifies a number of inconsistencies between the Appellant's own evidence and the documentary evidence he submitted in support of his claim.
4. Following the refusal the Appellant lodged a handwritten 'statement of additional grounds' with the First-tier Tribunal. He instructed representatives who prepared a witness statement on his behalf. Thus when the matter came before the First-tier Tribunal the Appellant's evidence was to be found in four documents: the records of the screening and substantive asylum interview, the statement of additional grounds, and his witness statement. In addition he gave oral evidence before the Tribunal.
5. In dismissing his appeal, the Tribunal found there to be ten reasons why his evidence could not be accepted, even to the lower standard applicable in asylum appeals. These are set out at paragraph 14(i)-(x) of the determination.
6. The Appellant now has permission to appeal on the grounds that in reaching its findings on credibility the First-tier Tribunal made a number of mistakes of fact in its treatment of the evidence. Further it is said that the Tribunal failed to have any regard to the Appellant's evidence that he did not regard the 'statement of additional grounds' as being a reliable record of his evidence. He had explained in his witness statement [at paragraphs 28-29] that it had been completed by a Bengali man whom the Appellant had met in a hotel. He had not had an opportunity to check its contents (not being able to understand English) and he had only latterly come to understand that the statement was, in some respects, inaccurate. Alternatively, Mr Timson argued, the explanation had been noted by the Tribunal [at 14(i)] but rejected without reason. This, he submitted, was a discrete error of law.
7. Mr Harrison opposed the appeal on all grounds. He submitted that the First-tier Tribunal had clearly had regard to all of the evidence, and had reached findings open to it on the evidence before it. The determination contained numerous adverse credibility findings which would stand even if one or more of the grounds were made out.

Error of Law

8. Paragraph 14(i) of the determination reads as follows:

“There is a large disparity between the account given in his interviews and contained in the additional grounds. The appellant’s explanation for this was unconvincing. He claimed that he was told that he had to submit additional grounds within 7 days but couldn’t initially find anyone who spoke Bengali so he then asked a Bengali man he met in his hotel whose name he does not know and who he had only ever met on that one occasion. I do not accept this account. The differences within the additional grounds are numerous...”
9. I am satisfied that the Tribunal was here directly addressing the evidence that the Appellant gave in respect of his ‘statement of additional grounds’. It cannot be said that the Tribunal failed to have regard to his explanation as to why that statement was not consistent with evidence given elsewhere.
10. Mr Timson argues that the statement “I do not accept this account” reveals an error of law in that no reason is given as to why the explanation was rejected. Reasons must be given so that a party can understand why he lost. Although paragraph 14(i) does not contain the words “I do not accept this account *because...*” it is quite apparent from a reading of the paragraph as a whole that the account given is rejected as implausible. The Tribunal did not find it credible that the additional grounds were drafted by a man whom the Appellant did not know, had met only once, still cannot name and whose connection to him is limited to him staying in the same hotel.
11. Even if I am wrong in this, Mr Harrison was quite right to point to the remaining findings. Contrary to the suggestion made by Mr Timson in his submissions, the remaining credibility findings were not simply based on any discrepancies, or errors of fact, arising between the additional grounds and the remaining evidence. Sub-paragraphs 14 (ii)-(x) identify material inconsistencies between the Appellant’s oral and written evidence, his evidence and the newspaper articles submitted, his screening and asylum interviews, his evidence and the material purporting to emanate from the BNP. The account is further found not to be consonant with the country background material, and a number of the documents, such as the FIRs, are found to be internally inconsistent. The Tribunal did not accept that the Appellant would leave Bangladesh through normal channels if he was actually wanted for murder, or that he would risk carrying the documents that he did if he were actually in fear of apprehension by the Bangladeshi authorities. The letters said to be from the BNP are found to be not genuine and the fact that there was a delay in claiming asylum further detracts from the Appellant’s credibility.
12. This was a comprehensive and detailed determination. Even if the alleged errors of fact mentioned in the grounds were made out, and the matters arising from the ‘statement of additional grounds’ were to be set aside, this is still an appeal that was bound to fail for lack of

credibility. The Appellant fell so far short of discharging the burden of proof that any remedy of the defects alleged in the grounds would not tip the balance in his favour, even to the lower standard of proof.

Decisions

13. The decision of the First-tier Tribunal contains no error of law and it is upheld.
14. I was not asked to make an order for anonymity and in the circumstances I see no reason to do so.

Upper Tribunal Judge Bruce

19th November 2015