



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

Appeal Number: PA/02783/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 20 June 2016**

**Decision &  
Promulgated  
On 5 July 2016**      **Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE G A BLACK**

**Between**

**MR MD FERDOUS AHMED  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Miah, Counsel, instructed by Sony Sadaf Haroon Solicitors

For the Respondent: Mr S Whitwell, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the appellant from the First-tier Tribunal proceedings against a decision made by First-tier Tribunal (Judge Andonian) (FtT), who dismissed his appeal on asylum and human rights grounds. The FtT found that it was not credible that the appellant was gay and therefore not at

risk of persecution in Bangladesh. The decision and reasons was promulgated on 12 April 2016.

2. **In the grounds of appeal** it was contended that the FtT erred in finding the appellant lacking in credibility for the reasons that it did without having regard to the objective evidence and further gave inadequate reasons for the same. Further it was argued that the FtT failed to apply the correct standard of proof and failed to explain why the appellant's young age was a factor. It was further contended that there were inconsistencies in the evidence between the appellant and his former partner, for example as between whether or not sweets given represented a birthday present and as to the location of clubs and the names of gay clubs. A further ground was raised that the FtT failed to give reasons for rejecting the evidence of the three witnesses who stated that the appellant was gay.
3. **Permission** was granted by Upper Tribunal Judge Deans, who considered that the approach taken by the FtT in reaching the negative credibility findings was flawed and was arguably an error of law.
4. **Rule 24 response**  
The Respondent opposed the appeal arguing that the FTT had given sufficient reasons for reaching the negative credibility findings having regard to the evidence before it. Such findings were not perverse and were sustainable notwithstanding that the background evidence was not considered.

### **Discussion and decision**

5. I heard submissions from both representatives the details of which are set out in the record of proceedings. I have looked at the decision as a whole and am satisfied that the FtT failed to consider all of the evidence in the round and holistically, having regard to the lower standard of proof. The FtT failed to consider whether the evidence was both internally and externally consistent and failed to give adequate reasons for the negative findings of credibility in relation to the appellant's account as to what happened or his relationships in Bangladesh and his brother's actions. There was no reference to or consideration of the background evidence which supported the appellant's claim to have engaged in gay relationships when he was young. The FtT's reasoning that because homosexuality was unlawful the appellant would not have acted as he claimed, was in my view unsound in the context of the background material.
6. The FtT placed too great a weight on discrepancies as between the appellant's account and that of his former partner which were only one aspect of the evidence to be considered. Further the FtT gave no reasons for rejecting the evidence of the three witnesses called on behalf of the appellant all of whom stated that he was gay. As to the inconsistencies

found in the evidence I am satisfied that there were no significant inconsistencies as it is conceivable that sweets could or could not have been regarded as a birthday present. I find no inconsistency in the evidence about gay clubs as one witness gives a location and the other witness given the names of clubs. I conclude having regard to the decision and reasons as a whole that there was a failure to consider all the evidence in the round before making findings of fact and credibility.

**Notice of Decision**

7. The appeal is allowed. The decision is set aside and none of the findings are preserved. The matter is remitted to the First -tier Tribunal (excluding Judge Andonian) for a hearing *de novo* at Taylor House on a date and time to be confirmed.

**No anonymity order is made.**

Signed

Date 1.7.2016

GA Black  
Deputy Upper Tribunal Judge G A Black

**TO THE RESPONDENT**  
**FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award.

Signed

Date 1.7.2016

GA Black  
Deputy Upper Tribunal Judge G A Black