



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

Appeal Number: PA/06537/2016

THE IMMIGRATION ACTS

Heard at : UTIAC Birmingham

**Decision & Reasons
Promulgated**

On 31 August 2017

On 5 September 2017

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

[G K]

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr B Bedford, instructed by Sultan Lloyd Solicitors

For the Respondent: Ms Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Afghanistan born on [] 2001. He arrived in the United Kingdom on 20 November 2015 and made an asylum claim which was refused on 15 July 2016. He appealed against that decision and his appeal was heard before the First-tier Tribunal and dismissed in a determination promulgated on 7 March 2017.

2. The basis of the appellant's claim is that he fears returning to Afghanistan as he escaped from the Taliban after being forced to fight for them. In rejecting his claim, the respondent did not accept his account of his involvement with the Taliban and considered that he would be at no risk on return.

3. The appellant appealed against that decision and his appeal was heard by First-tier Tribunal Judge Juss on 13 January 2017. Judge Juss relied on discrepancies in the appellant's claim which he considered to undermine his credibility. He found that the appellant would be at no risk on return and that his removal from the UK would not breach his human rights. He accordingly dismissed the appeal on all grounds.

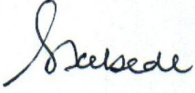
4. Permission to appeal was sought on behalf of the appellant on grounds challenging the judge's adverse credibility findings and his findings on risk on return to his home area or reasonableness of return to Kabul. Permission was granted on 7 July 2017.

5. At the hearing before me, Ms Aboni relied on the respondent's rule 24 response supporting the judge's credibility findings but accepting that he had failed to provide full details of the appellant's ability to return to Afghanistan. After hearing submissions from Mr Bedford in regard to the judge's credibility findings I decided that the judge's decision was unsustainable in all respects and had to be set aside.

6. Contrary to the principles set out in the recent case of AM (Afghanistan) [2017] EWCA Civ 1123 there is no indication in Judge Juss's decision that he gave any consideration to the appellant's age and vulnerability in assessing his credibility and in making the adverse findings that he did. On the contrary, he rejected the claim on the basis of a very brief assessment of the evidence at [23] and failed at [24] to address the background evidence relied upon by the appellant's representative in regard to forced recruitment of children by the Taliban. In addition, as accepted by the respondent, the judge gave no consideration to the appellant's ability to return either to his home area or alternatively to relocate to Kabul as a minor. It seems to me that the judge conducted a wholly inadequate assessment of the appellant's evidence and circumstances, particularly considering his age, and that his conclusions simply cannot be upheld. Accordingly, the decision has to be set aside and re-made in its entirety, with no findings preserved.

DECISION

7. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal, to be dealt with afresh, with no findings preserved, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Juss.

Signed 
Upper Tribunal Judge Kebede
2017

Dated: 31 August