



**Upper Tribunal**

**(Immigration and Asylum Chamber)**

**Appeal Number: PA/07683/2016**

**THE IMMIGRATION ACTS**

**Heard at Birmingham  
On 23 August 2017**

**Decision & reasons promulgated  
On 31 August 2017**

**Before**

**UPPER TRIBUNAL JUDGE HEMINGWAY**

**Between**

**MR SAMAN SAMI**

**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms S Bahia (Solicitor)

For the Respondent: Mrs Aboni (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is the claimant's appeal to the Upper Tribunal from a decision of the First-tier Tribunal (Judge Juss, hereinafter "the Judge") whereupon he dismissed his appeal against the Secretary of State's decision of 12 July 2016 refusing to grant international protection.

2. Put simply, the claimant is an Iraqi national who says he is from Mosul. He is of Kurdish ethnicity. He claims that he would be at risk of persecution or serious harm if returned to Iraq because of his father's previous involvement with the Ba'ath Party. However, he was disbelieved by the Secretary of State so his claim was refused.
3. There was an oral hearing of the appeal on 16 February 2017. The claimant gave evidence at that hearing and both parties were represented. The Judge, at paragraph 2 of his written decision, noted in brief the Secretary of State's credibility concerns. From paragraphs 9 to 11 he summarised the submissions made to him by the two representatives. He then explained why he was finding that the claimant was to be disbelieved and why, in any event, he would be able to take advantage of an internal flight alternative if he was at risk in his home area. The Judge said this;

"14. First, the appellant lacks complete credibility in his account about his father's involvement with the Baath [sic] by reason of which he himself has come to be placed in risk, to an extent that the risk in consequence to the appellant, I find, is wholly implausible as suggested. Second, the appellant has attempted to shore up his claim by reference to additional documentation today, such as his father's death certificate and his mother's attestation of it. I find that the appellant has failed to make out the case that his father is dead. Third, the appellant can find safety in any event because his family has moved to Kawrasoor where father's uncle lives. Finally and in any event, the prospect of other internal relocation exists in this case, and I do not accept that the appellant would be unable to relocate to Baghdad. I do not accept that they will be found out there and harmed."

4. Permission to appeal was granted by a Judge of the First-tier Tribunal. The salient part of the grant reads as follows.

"It is arguable that the Judge has erred in law and has misdirected himself by failing to give adequate reasons for (a) why the appellant lacked complete credibility in his account of his father's involvement in the Ba'ath Party and how he has come to be placed at risk; (b) in relation to his father's death certificate and his mother's attestation of it; (c) how the appellant could find safety because his family has moved to Kawrasoor where his uncle lives; (d) how the appellant could internally relocate. The case of Shizad (sufficiency of reasons, set aside) [2013] UKUT 85 (IAC) is referred to for its terms."

5. Permission having been granted, the appeal was listed before the Upper Tribunal (before me) so that consideration could be given to the question of whether or not the Judge had erred in law. Representation at that hearing was as indicated as above and I am grateful to each representative. In the event the hearing was a short one because Mrs Aboni, quite properly and appropriately in my view, acknowledged the Judge had failed to provide

adequate reasons for his decision. In those circumstances both representatives urged me to set aside the decision in its entirety and to remit to the First-tier Tribunal for a complete rehearing on all matters.

6. I have decided to do as I am urged. Paragraph 14 of the Judge's decision effectively contains conclusions without there being any reasoning to underpin those conclusions. There is, on my reading, no such reasoning elsewhere in the Judge's written decision. Accordingly it cannot stand. I have decided to remit because that does seem to me to be appropriate in circumstances where nothing can be preserved and where there is likely to be a need for further evidence and significant fact-finding.

7. Not wishing to tie the hands of the First-tier Tribunal I have issued only brief directions concerning how the decision is to be re-made and which, I anticipate, will be supplemented if appropriate in due course.

### **Directions**

1. The decision of the First-tier Tribunal as set out in written reasons dated 18 February 2017 having been set aside in its entirety, there shall be a complete rehearing of this appeal.
2. That rehearing shall take place before a Judge of the First-tier Tribunal other than Judge Juss.
3. The rehearing shall take place at the Birmingham hearing centre and the claimant shall be provided with a Kurdish Sorani speaking interpreter.
4. These directions may be supplemented or varied at any time by any salaried Judge of the First-tier Tribunal.

### **Decision**

The decision of the First-tier Tribunal involved the making of an error of law and is set aside.

The appeal is remitted to the First-tier Tribunal for a complete rehearing in accordance with the directions set out above.

None having been sought or previously made, no anonymity direction is made.

**Signed**

**M R Hemingway  
Judge of the Upper Tribunal**

**Dated**

**31 August 2017**

**TO THE RESPONDENT  
FEE AWARD**

Since no fee is paid or payable I make no fee award.

**Signed**

**M R Hemingway  
Judge of the Upper Tribunal**

**Dated**

**31 August 2017**