



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/01085/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 December 2017**

**Decision & Reasons  
Promulgated  
On 04 January 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD**

**Between**

**MR GUBEN HADERA  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr C Jacobs, Counsel.

For the Respondent: Ms Z Ahmad, Home Office Presenting Officer.

**DECISION AND REASONS**

1. The Appellant claims to be a national of Eritrea. He sought international protection but his application was refused by the Respondent and he appealed. Following a hearing at Bradford Judge of the First-tier Tribunal N M K Lawrence, in a decision promulgated on 23 March 2017, dismissed the Appellant's appeal.
2. The Appellant's sought permission to appeal which was initially refused on 27 July 2017 but a renewed application to the Upper Tribunal was granted

by Upper Tribunal Judge McWilliam on 14 September 2017. Her reasons for granting permission to appeal are as follows:-

“The Appellant seeks permission to appeal against the decision of J FtT N M K Lawrence to dismiss his appeal.

It is arguable that the Judge did not make findings in respect of the Appellant’s parents and the evidence relating to them having been deported in 2000 to Eritrea. Although the Judge rejected the Appellant’s credibility, it is not clear what he made of this aspect of his evidence, in the light of the background evidence.

The Appellant’s case was not advanced on the basis that he has been arbitrarily denied the right to return to Ethiopia as an Ethiopian. His case is that he is not Ethiopian, but Eritrean and that probably explains why the Judge did not engage with the issues in **ST [2011] UKUT 00252**, however permission is granted on all grounds”.

3. Thus, the appeal came before me today.
4. The Tribunal had previously given directions in this appeal regarding potential missing documentation. At the outset of the hearing I confirmed with both representatives the material I had and it was agreed that all necessary documentation was before me.
5. Mr Jacobs and Ms Ahmad agreed that the first issue in this appeal was whether the Appellant was an Eritrean national and it was accepted that were he not to be he would not be at risk upon return to that country.
6. Mr Jacobs went on to expand the grounds seeking permission to appeal. In particular the absence of any findings in respect of the Appellant’s parents and the evidence relating to them having been deported in 2000 to Eritrea.
7. Although Ms Ahmad accepted that there were no findings on this issue she argued that nonetheless considering the totality of the evidence and the findings made that the absence of such a finding was not a material one.
8. That is not a submission that I accept.
9. No findings had been made by the Judge as to whether he accepted that the Appellant’s parents likely voted in the 1992 referendum and consequently were deported to Eritrea in 2000. These were relevant findings that required to be made and resulted in the Judge’s assessment of the Appellant’s nationality failing to consider relevant background material that was before him in relation to the effect of the Appellant’s parents’ deportation during the relevant period. The relevant background evidence in relation to this is cited at paragraph 9 of the grounds seeking permission to appeal where there are references to materials within the Respondent’s own Country Information Report which had been drawn to the Judge’s attention.

10. Mr Jacobs accepted that were I to find that this ground was made out and that the Judge had materially erred, as submitted, then consideration of his other grounds of appeal would become a redundant exercise on the basis that the decision was so infected by the absence of these findings that a fresh hearing was required.
11. I accept that that is the position. The decision cannot stand. The Appellant has been denied a fair hearing in the First-tier Tribunal and the Judge has failed to make findings on material that was before him which needed to be made to ensure that the decision was safe.

### **Notice of Decision**

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 pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge N M K Lawrence.

No anonymity direction is made.

Signed

Date 29 December 2017.

Deputy Upper Tribunal Judge Appleyard