



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03328/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 6 December 2017

On 8 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MANUELL

Between

**Mr A S
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Saini, counsel (instructed by Adam Bernard)

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

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Landes on 15 September 2017 against the determination of First-tier Tribunal Judge O'Brien who had dismissed the appeal of the Appellant against the refusal of his international protection claim. The decision and reasons was promulgated on 31 May 2017.

2. The Appellant is a national of Bangladesh, born on 3 July 1988. He had claimed asylum on 25 February 2017, having entered the United Kingdom as a Tier 4 (General) Student Migrant as long ago as 15 January 2010. His immigration history is summarised at [2] of Judge Owens's decision. The Appellant asserted that he was at risk because of his opposition political opinion: he supported the Bangladesh National Party ("BNP") and the Awami League was in power. He had been injured in an attack while attending a BNP demonstration in June 2009. A case had been lodged against him in Bangladesh by the Awami League, after he left Bangladesh. The Appellant also claimed that he had married in the United Kingdom without his parents' approval and had been disowned.
3. Judge Owens found that the Appellant had failed to prove his claims and was not a credible witness. His evidence lacked consistency and his documents were not reliable. His delay in claiming asylum further detracted from his credibility. The judge found that the Appellant was a low level BNP member with no significant profile in Bangladesh or in the United Kingdom. There was no current threat and he could return to Bangladesh in safety. The Appellant had not been rejected by his family and internal relocation was available in any event. The appeal was accordingly dismissed.
4. Permission to appeal was granted by Judge Landes on partially limited grounds because it was held arguable that the judge had erred in her approach to the Appellant's documents, by failing to consider them in the round and had also arguably misunderstood them. The other complaints raised in the grounds had little force if any.

Submissions

5. Mr Saini for the Appellant relied on the grounds of onwards appeal and grant. In summary, he submitted that the judge was confused about the Appellant's documents, mixing up one with another. Dates had been conflated and the judge had made preliminary findings, prematurely dismissing the case. The documents were not totally inconsistent. There had been a failure to assess the evidence in the round. The finding that internal relocation was possible was mistaken as the persecution which was feared was state wide. The decision and reasons was unsafe and should be set aside and the appeal reheard.
6. Mr Kandola for the Respondent submitted that complaint about the approach to the documents was misplaced. The evidence had been looked at in the round, in its proper context of a late claim. Perhaps the structure of the determination was less than ideal but the substance was correct. The documents were of obviously poor quality with a dubious provenance. Any error was not fundamental. The onwards appeal should be dismissed.

7. In reply, Mr Saini emphasised that the judge's findings had been reached erroneously. Had there been a piecemeal assessment leading to a foregone conclusion? A misreading of the documents was important and could have affected the outcome of the appeal.

No material error of law finding

8. The tribunal accepts the submissions of Mr Kandola. In the tribunal's view, the errors asserted to exist in the decision and reasons are illusory. This was plainly and obviously a "last ditch" appeal, devoid of any genuine merit, where an appellant had claimed asylum only after all other manoeuvres had failed. The structure of the judge's analysis was criticised but there was no suggestion that the judge had left any of the evidence produced by the Appellant out of account. The judge examined the Appellant's documents in their natural context of a seriously belated claim by a person who had had access to any necessary information about seeking international protection in the United Kingdom, and who had had ample time to do so. The judge made specific findings to such effect.
9. The documents produced were of poor quality and were selectively disclosed, without adequate provenance, as the judge found for sufficient reasons: see, e.g., [43]. The judge applied the familiar Tanveer Ahmed test to the Appellant's documents, although at [49] the judge referred to the documents as having been "fabricated", which was perhaps going somewhat further than necessary but which was a justified inference. It was the Appellant's responsibility to provide accurate translations of the Bengali documents on which he relied. Those translations were clumsily worded. The judge had to work from what the Appellant had chosen to provide. No fresh or improved translations were provided to the Upper Tribunal to suggest that the judge had erred in taking the English translations at face value.
10. It was open to the judge to consider the Appellant's documents in two groups, the BNP materials and then the court documents. As the judge found that none of the documents about the Appellant's political activities showed more than a vague, low level connection to the BNP, it was open to the judge to find that the court documents also bore no weight. The judge again inferred that the court documents had been fabricated, which was again justified. In the tribunal's view, this was not an analysis which had started with a preliminary finding or even hypothesis against the Appellant, save for the undisputed chronology which showed the huge delay of 7 years on the Appellant's part: see [53] and [54] of the decision and reasons. The tribunal is far from persuaded that the judge misunderstood the Appellant's evidence.

11. The judge placed the Appellant's claim into the context of current country guidance concerning Bangladesh: see [55] of the decision and reasons. Perhaps that might have been a better place at which to commence the judicial analysis but that country background is familiar and uncontroversial. No doubt it was in the judge's mind at the start of the hearing. There was no country background material relied on by the Appellant which the judge omitted to consider.
12. It was open to the judge to find that the Appellant could and should have provided evidence of his claimed political activity for the BNP in the United Kingdom, as it involved no risk or logistical difficulty for him. The contrast with the number of documents produced from Bangladesh (where he was said to be at risk) could hardly have been more plain.
13. Indeed, the judge's finding that the Appellant had been a low level member of the BNP at college in Bangladesh might be thought a somewhat generous finding in the Appellant's favour, given the numerous deficiencies in the Appellant's evidence identified by the judge. But that generosity is indicative of the anxious scrutiny which the judge applied to the evidence, and is not something of which the Appellant can complain.
14. Mr Saini's submissions, like the onwards grounds, focussed on potential weaknesses in the judge's decision and reasons rather than on the merits of the claim. In the end the submissions made on the Appellant's behalf amounted to little more than disagreement with the judge's decision, which had exposed a transparently weak and implausible case. The tribunal finds that there was no material error of law in the decision challenged.

DECISION

The appeal is dismissed_

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged.

Signed

Dated 6 February 2018

Deputy Upper Tribunal Judge Manuell