



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/05286/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 10th April 2018

**Decision & Reasons
Promulgated
On 27th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR M A R
(ANONYMITY ORDER MADE)**

Respondent

Representation:

For the Appellant: Ms Z Ahmed, Senior Home Office Presenting Officer
For the Respondent: Mr D Sellwood, Counsel, instructed by Wilson Solicitors LLP

DECISION AND REASONS

1. For convenience I shall employ the appellations “Appellant” and “Respondent” as at first instance. The Appellant is a national of Bangladesh who applied for asylum on the basis of his political opinion. The thrust of his claim was that he was a BNP activist and he was persecuted in his country for his political opinion and would be should he be returned there. His appeal was allowed by First-tier Tribunal Judge Clarke in a decision promulgated on 21st November 2017.
2. Grounds of application were lodged by the Home Office and it was said that the judge had erred in making findings on the reliability of the

Document Verification report (DVR) regarding the verification process and redacted information. Reference was made to the CPIN information on fraudulently obtained and forged documents. It was unclear why the judge had reached the finding he did make. Furthermore, he had also failed to recognise that there was an internal flight option.

3. Permission to appeal was initially refused but ultimately granted by Upper Tribunal Judge Kebede, who noted that there was arguable merit in the assertion in the grounds that the judge had erred in her approach to the DVR. There was less merit in the second ground but it was not excluded from consideration.
4. There was a Rule 24 response by the Appellant. The first Ground of Appeal was, it was said, in truth a reasons challenge, not a mistake of fact. The judge had summarised the issues and the evidential value of the DVR, which concerned the genuineness of a First Information Report (FIR). The grounds of application conclude by asserting it was unclear why the judge had reached the findings she did, namely that the DVR was to be given little weight. However, it was said that Judge Clarke had given clear and cogent reasons why she came to that conclusion. Details are provided. In the circumstances it was said that Judge Clarke was entitled to make the findings she did make and give little weight to the DVR.
5. Furthermore, the grounds of the Respondent appear to be based on a misreading of the DVR. The FIR the Appellant purported to make enquiries about was numbered 11/277. The DVR concluded there was no record of it but for reasons unknown went on to cite a different FIR, numbered 11/229, which was concerned with other matters. The grounds were conflating the two FIRs.
6. There were ample reasons given by Judge Clarke for giving little weight to the DVR.
7. In terms of internal flight the risk was not simply localised on the basis of a land dispute. Judge Clarke found the Appellant was at real risk on return to Bangladesh from both non-state actors with ruling party patronage and state actors and was subject to spurious criminal proceedings in Bangladesh because of his political activities. There was no error in law.
8. Thus the matter came before me on the above date. For the Home Office reliance was placed on the grounds. The judge had failed to understand the information presented to her. The decision should be set aside and the matter considered afresh. While the issue of internal relocation was not relied on in the refusal letter paragraph 3390 of the Rules, dealing with internal flight, held that this was a matter which had to be considered. I was asked to remit the appeal to the First-tier Tribunal.
9. For the Appellant Mr Sellwood relied on his skeleton argument. The judge had given clear reasons and there was no error in law. The issue was one of the weight to be given to the DVR and that was a question for the judge, who had given cogent and sufficient reasons.

10. I reserved my decision.

Conclusions

11. Critical to the judge's findings were what she set out in paragraph 17. Essentially the judge was not satisfied that the search carried out by the local police station was properly carried out. The judge gave a number of clear reasons for such a conclusion. As the judge said, it was not known how long it took for the search to take place, how many FIRs were examined, what records were kept, and what cross-referencing existed.
12. The judge went on to refer to **MA (Bangladesh) v SSHD [2016] EWCA Civ 175** and she directed herself that she should exercise caution when relying on documentation. There were a number of different documents which the Appellant said were collected by a friend and for reasons given she placed little weight on the documents provided by A R.
13. The judge went on to refer to supporting evidence and the reports from Dr Hoque and Dr Arnold (paragraphs 20 and 21). The judge noted that the Appellant had been a consistent witness. For these reasons given she accepted the explanation for the delay in claiming asylum (paragraph 22). The judge referred to the background evidence describing the present situation in Bangladesh, noting little had changed since the writing of the COIR. Paragraph 1.3.6 reads that harassment, arbitrary arrests etc. occurred throughout 2013/2014 and early 2015. Paragraph 1.3.11 reads that perceived political opponents whose fear is of serious harm at the hands of the state would be unable to avail themselves of protection from the authorities (paragraph 23). In paragraph 24 the judge noted that paragraph 1.3.12 reads that in cases on fear of ill-treatment by members of opposing political parties effective protection would not be available for the governing authorities.
14. Drawing all the strands together, the judge found that the Appellant was a credible witness because he had been consistent since his late claim for asylum, that his account was consistent with the background evidence, he had suffered persecution in the past and was still suffering mentally as a result (paragraph 25).
15. In my view, there is no error of law in the judge's findings. The judge has given clear reasons for concluding that little weight should be given to the DVR. As noted in the Rule 24 notice, there are a number of reasons given as to why the judge formed the view she did form and it therefore does not seem to me that any error of law emerges from the judge's findings. Furthermore, the judge has gone on to consider the evidence in its totality, noting that because of the lack of a sufficiency of protection that, by implication, there was no internal relocation possibility for this particular Appellant.
16. The judge's reasoning is sound throughout and it follows that the decision must stand as there is no error of law.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

I am continuing the anonymity order.

Order Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This order applies both to the Appellant and to the Respondent. Failure to comply with this order could lead to contempt of court proceedings.

Signed *JG Macdonald*

Date 27th April 2018

Deputy Upper Tribunal Judge J G Macdonald

TO THE RESPONDENT
FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Signed *JG Macdonald*

Date 27th April 2018

Deputy Upper Tribunal Judge J G Macdonald