



Upper Tribunal  
(Immigration and Asylum  
Chamber)

Appeal Number: PA/08745/2017  
**THE IMMIGRATION ACTS**

Heard at: Field House  
On: 21 February 2018

Decision and Reasons Promulgated  
On: 14 March 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MAILER

Between

I I K  
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation**

For the Appellant: Mr A Miah, counsel (instructed by Blackrock Solicitors)  
For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.
2. The appellant is a national of Bangladesh, born on 30 December 1986. He appeals with permission against the decision of First-tier Tribunal Judge Moore who, in a decision promulgated on 13 October 2017 dismissed his asylum, humanitarian protection and human rights claims.
3. Judge Moore had regard to the decision of Judge Monson promulgated in April 2016. The appellant accepted that he made an application for leave to remain as a Tier 1 Migrant in November 2014 but had disputed that he was aware of the hearing and accordingly did not attend. Judge Moore did not accept that he would

not have known of the hearing. Notices had been sent separately to his legal representative as well as to the appellant at his last known address. According to the appellant, he confirmed at the hearing that he lived at that address at the time and continued to live there. He was satisfied that adequate notice had been given to the appellant but he nevertheless failed to attend [26].

4. Judge Moore referred to the finding of Judge Monson that the appellant had knowingly and dishonestly provided with his application false bank letters and bank statements relating to a non-existent account which he claimed to hold with a bank. Nor did his claim at the time in relation to Article 8 constitute more than bare facts which did not disclose a viable private life claim under paragraph 276ADE [26].
5. He stated that in accordance with *Deevaseelan* he was required to consider as a starting point the decision of Judge Monson. He found in any event that the appellant in 2014 made an application for leave to remain as a Tier 1 migrant even though at the time he would have claimed to be in urgent need of international protection but failed to make any asylum claim at the time, preferring to make an application for leave to remain as an entrepreneur. In his view this was not the action and conduct of an individual in need of international protection [26].
6. He also noted that with regard to his claim to be a member of the Chhatra Shibir at [27] that the appellant did not produce a membership card as it could not, according to the appellant, be located by family members in Bangladesh. However, prior to the hearing the appellant never claimed to be a member or holding a membership card. He gave evidence that he asked his family to look for the card but they could not find it.
7. In the absence of the card the appellant claimed that he received the letter from the Secretary of his Islami Chhatra Shibir confirming his political activities. The Judge referred to the letter dated 1 July 2017 which stated that the appellant was "actively involved with Bangladesh politics when he was in Bangladesh." The letter continued that he studied at a college from 2004 until 2006 and was an active member of Jamaat-e-Islami, Bangladesh student wing, and was also politically active whilst studying at a college between 2007 and 2008. There was no specific reference in the letter as to what involvement the appellant had politically in Bangladesh or indeed that he was actually a member with a membership card of the political party he claimed to be involved with at the time [27].
8. He found the letter from the Sylhet Government College dated 18 February 2009 to be of limited value. This simply stated that the appellant was a regular student during the academic situation in 2007-08. However, the appellant claimed that on account of a gunshot wound he was unable to study at the college due to his injury. There was no mention in the letter as to any absence from college for a year. Nor was his evidence of an absence from the college on account of a gunshot wound consistent with other evidence given at the hearing when he was shot in 2008 that this was after he finished college [28].
9. He found the letter from Dr Samdany to be extremely limited in its value. There was no reference to any gunshot wound and simply recorded that the appellant

came to see him after receiving serious injuries on his left side hip and left hand knee. The appellant made no reference to any knee injury whatsoever, either in his statement or at the hearing. The Judge did not accept that this letter supports his claim that he went to see a doctor as a result of a gunshot wound [29].

10. Nor was his account of the gunshot wound incident consistent. The Judge set out the evidence at [30] noting that the appellant claimed that on account of the passage of time the hospital where he was treated was unable to provide documentary evidence of treatment which would have included hospital records and x rays taken at the time. In the letter from Dr Samdany, no reference was made to any x rays taken. The appellant claimed that his brother went to see Dr Samdany “a couple of months ago” but the doctor said he was unable to provide any hospital records or x rays. He found that account to be implausible. The appellant had claimed that he had the letter from Dr Samdany dated 15 November 2008 for the past nine years [30].
11. In the event, Judge Moore found that “negative credibility findings” undermined the appellant's claims so that he was unable to accept it. He did not accept that he was a member of a political party as claimed; that he was politically active or that he was shot. Nor would he be of adverse interest if returned to Bangladesh [35].
12. On 15 December 2017 First-tier Tribunal Judge P J M Hollingworth granted the appellant permission to appeal stating that in the earlier findings, the extent to which the Judge sought corroboration in assessing credibility is unclear and arguably undermines part of the credibility analysis. Further, the Judge arguably fell into error when speculating with regard to s.8 that it may be that the appellant's relative told him not to claim asylum but to get a visa.
13. Mr Miah, who did not represent the appellant at the first hearing, submitted that the Judge paid mere lip service to the standard of proof set out at [10].
14. There had not been an adequate reasoning process. Potentially corroborative evidence was overlooked. Nor did the Judge consider the evidence in the round.
15. The appellant relied on a letter from Sylhet Government College dated 18 February 2009 which “certified” that he had been a regular first year student in 2007-2008.
16. Further, it was contended in the skeleton argument before the First-tier Tribunal, that despite the absence of medical evidence relating to the alleged gun shot which occurred in 2008 whilst the appellant was on his way home from university, due regard should be had to the letters from Dr Samdany confirming that he received treatment on 22 October 2008. He also provided evidence demonstrating his involvement with the Chhatra Shibir and his political involvement prior to coming to the UK.
17. Mr Miah referred to [24]. There the Judge found that his delay in claiming asylum undermined his claim that he was in urgent need of international protection. I have set out the Judge's findings in that respect at [34]. Mr Miah submitted that there is no evidential basis for what amounted to speculation by the Judge.

18. On behalf of the respondent, Mr Jarvis submitted that the high point in this appeal is the grant of permission. The grant of permission amounts to form over substance. There has been a lawful judgment.
19. The Judge has properly directed himself. It was necessary for Judge Moore to look at the evidence in the round [24].
20. His findings at [25] that the appellant's account was inconsistent and implausible and that there was a lack in certain respects of reliable and credible evidence supporting his claim regarding his political activities, were sustainable. The appellant did not apply for asylum for some years because he was hoping to complete his studies and go back to Bangladesh on the basis that the ruling party would have changed. That the Judge also found to be implausible. He did not accept that it was ever the intention of the appellant to return to Bangladesh [34].
21. Mr Jarvis submitted that in the circumstances there had been no relevant errors of law.
22. In reply Mr Miah again submitted that the Judge had given insufficient reasoning in relation to findings in the core issues. Further, the finding that the letter from the Sylhet Government College was of limited value "was in excess of the burden of proof that rested on the appellant."

#### **Assessment**

23. Judge Moore has given a detailed decision in which he has set out the appellant's case, including the documents produced in support of his claim.
24. He had proper regard to the earlier decision of Judge Monson who dismissed the appellant's claim. He correctly noted that the findings of Judge Monson constitute a starting point.
25. He was satisfied that the appellant had knowingly and dishonestly provided with his application for leave as a Tier 1 Migrant, false bank letters and bank statements relating to a non-existent account.
26. He also found that the application to remain as a Tier 1 Entrepreneur at the time was inconsistent with the conduct of an individual claiming to be in need of urgent international protection.
27. Judge Moore has set out the appellant's case in detail at [27]. He has had proper regard to the letter from the Sylhet Government College dated February 2009. He has also given cogent reasons at [28] for finding that the letter was of limited value.
28. He was entitled to accept on the evidence that the letter from Dr Sandamy did not support his claim that he went to see a doctor as a result of a gunshot wound. The appellant had made no reference to any knee injury, either in his statement or at the hearing, which was referred to in the medical letter. Nor was his account of the gunshot incident consistent. He has given proper reasons for that conclusion [29]. At [33] he also took into account that if the appellant had been shot at by seven assailants, the police would at least have undertaken some enquiries.
29. He had proper regard to s.8 of the 2004 Act at [34]. He was entitled to take into account the fact that the appellant entered the UK in 2009 as a student but failed to

claim asylum in 2014, instead making a Tier 1 application. It was only after he was encountered by immigration officers in February 2017 and was found to be an overstayer, that the claim was made. It was only after his arrest and detention and after being served with a removal notice that he claimed asylum [34].

30. He has given careful consideration to the appellant's claims. He has set out in detail why, after considering the evidence as a whole, he did not accept that the appellant was a member of a political party, was politically active or that he was shot at. The finding that the appellant would not be of adverse interest if returned to Bangladesh is sustainable.

### **Notice of Decision**

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

Anonymity direction not made.

Signed

Date 9 March 2018

Deputy Upper Tribunal Judge Mailer