



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08801/2017

THE IMMIGRATION ACTS

Heard at Field House
On 7 September 2018

Decision & Reasons Promulgated
On 17 September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PEART

Between

[M C]
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hyder

For the Respondent: Mr Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh. He was born on 5 December 1975. He appealed against the respondent's refusal to grant asylum dated 29 August 2017. The appellant's appeal against the respondent's refusal was dismissed in a decision of Judge N M K Lawrence (the judge) promulgated on 30 May 2018.
2. The grounds claim the judge arguably erred in misdirecting himself on core issues set out at [3.1]-[3.21] of the grounds.

3. Judge Kelly in a decision dated 13 July 2018 granted permission to appeal. He said inter alia:

"2. It is arguable for the reasons given in the grounds, that the Tribunal misinterpreted and/or misunderstood the evidence in ways that were material to the outcome of the appeal. It is also arguable that the Tribunal's adverse plausibility finding paragraph 31 was made without reference to background country information that supported the appellant's claim. Permission to appeal is accordingly granted."

Submissions on Error of Law

4. Mr Hyder relied upon what he identified as the judge's misunderstanding of the documentary evidence which is at F33-34 of the respondent's bundle. The judge refers to this evidence at [11]-[14] of his decision.
5. Mr Hyder claimed another misunderstanding at [30] of the judge's decision when he says that the date of the reported violent incident was not mentioned, whereas, it is referred to at page 25 of the appellant's bundle 3. See ground [3.13].
6. Mr Tufan accepted there were a couple of "blips" in the decision but that I should look at the overall adverse credibility findings and not be swayed by minor matters of no consequence which do not amount to a material error of law.

Conclusion on Error of Law

7. It is true that the judge made wholesale adverse credibility findings against the appellant but the difficulty with regard to upholding the decision is that the judge commences his adverse credibility findings on an inaccurate core foundation which I find adversely influenced his decision overall. The date when the flight was booked which the judge considers at [11]-[14] was crucial to the judge's adverse credibility findings which he goes on to consider in light of additional evidence at [16]-[17].

Notice of Decision

8. I find that the judge's confusion with regard to the core issue of the date of booking of the flight was of significance in his overall adverse credibility findings which have resulted in a material error of law.
9. As I have found that the judge erred in his assessment of credibility for the reasons I have set out above, the remaking of the appeal will require significant fact-finding. Having regard to [7.2](b) of the practice statements for the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal, I consider this is an appeal which is appropriate to remit to the First-tier Tribunal for a de novo hearing before any judge other than Judge N M K Lawrence.

No anonymity direction is made.

Signed

Date 7 September 2018

Deputy Upper Tribunal Judge Peart