



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/04829/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
Via Skype for Business
On 9 November 2020**

Decision & Reasons Promulgated

On 12 November 2020

Before

UPPER TRIBUNAL JUDGE LANE

Between

**TN
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Jafar

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

DECISION AND REASONS

1. The appellant was born in 1986 and is a female citizen of Zimbabwe. She first entered the United Kingdom in July 2003 as a visitor. She applied for asylum in June 2004. That application is refused and a subsequent appeal dismissed. She made fresh submissions leading to a further refusal by the Secretary of State dated 23 April 2019. The appellant appealed against that decision to the First-tier Tribunal which, in a decision promulgated on 24 July 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I find that the decision of the First-tier Tribunal contains an error of law such that it falls to be set aside. At [35], judge found that the appellant could return to Harare and would face 'no significant difficulties.' However, the application's home area of Zimbabwe is Chegutu, which is in Mashonaland west Province. Her home area is not Harare. Nowhere in the decision does the judge consider whether the appellant would be at real risk if she returned to her home area. It was necessary for the judge to consider whether the appellant could return to her home area before determining whether it would be unduly harsh for her to exercise the option of internal flight by living in Harare or elsewhere within Zimbabwe; different legal tests apply in each instance. In the judge's analysis, internal flight is not mentioned and there has not been any assessment of whether return to Harare would be unduly harsh given the particular characteristics of this appellant. As a consequence, the analysis of the judge is flawed. The appellant is entitled to receive a decision which applies the relevant law to the actual facts found in her appeal. That is not occurred in this instance.
3. I indicated my view on error of law at the initial hearing. There was a discussion at court with a view to narrowing the issues between the parties. Mr Jafar, who appeared for the appellant, pointed out that the judge had failed to make any clear findings in respect of a letter in support of the appellant's account at [40] of the respondent's bundle. He submitted that the Secretary of State, in the decision letter at [24], appears to accept gave an accurate account of the appellant's *sur place* activities. Mr McVeety, who appeared for the Secretary of State, did not agree. Whilst I accept that the judge may not have given clear findings regarding that part of the appellant's evidence, it is a matter for the next Tribunal; given that this issue was not raised in the grounds of appeal, I made no finding as to the extent to which the Secretary of State may or may not have accepted any part of the appellant's evidence.
4. There will need to be a fresh fact-finding exercise which is better conducted in the First-tier Tribunal to which Tribunal this appeal is now returned for the decision to be remade at or following a hearing *de novo*.

Notice of Decision

This decision of the FTT which was promulgated on 24 July 2019 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal **(Taylor House; not before Judge GD Davison; 2 hours; no interpreter; first available date)** for that Tribunal to remake the hearing at or following a hearing *de novo*.

Signed

Date 9 November 2020

Upper Tribunal Judge Lane

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

Unless and until a Tribunal or court directs otherwise, the appellants are 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 appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.