



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

Appeal Number: PA/02683/2020

THE IMMIGRATION ACTS

**Heard at Field House
20 January 2022**

**Decision & Reasons Promulgated
On 2 February 2022**

Before

**DEPUTY UPPER TRIBUNAL JUDGE BOWLER
UPPER TRIBUNAL JUDGE SHERIDAN**

Between

**AAMA
(Anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

Anonymity is granted because the case involves protection issues. 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 direction applies both to the appellant and to the respondent.

Representation:

For the appellant: Mr D. Bazani counsel, instructed by Nandy & Co Solicitors
For the respondent: Mr Walker, Senior Home Office Presenting Officer,

DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 4 March 2020 to refuse a claim to protection on the grounds of his homosexuality and claimed threats from his father and based on his human rights resulting from his family and private life in the UK.
2. First-tier Tribunal Judge Paul ('the judge') dismissed the appeal on protection and human rights grounds in a decision dated 6 May 2021.
3. The appellant has appealed on grounds which, in essence, submit that the judge failed to take account of relevant evidence and made inadequate findings.
4. Permission to appeal was granted by First-tier Tribunal Judge Hollings-Tennant in a decision dated 11 October 2021 in which it was decided that the judge had provided limited reasons for his decision and had failed to make findings regarding a country expert report and a medical report, although the materiality of the errors was questioned.
5. At the hearing before us Mr Walker conceded that there were errors of law in the judge's decision as a result of the judge failing to:
 - a. Adequately address the country expert report and make findings in relation thereto; and
 - b. Adequately address the medical evidence and make findings in relation thereto.
6. We discussed the materiality of the errors of law with the representatives. Mr Walker submitted that the errors were material given the lack of relevant findings. We asked Mr Bazani to address the position in the light of MD (same-sex oriented males: risk) India CG [2014] UKUT 00065 (IAC) if the evidence was taken at its highest. Mr Bazani submitted that the country expert report, in particular, shows that it would be unduly harsh or unreasonable to expect the appellant to internally relocate given that he is Muslim and gay and given the evidence of his father's influence.
7. The judge's findings are extremely limited and do not adequately address various parts of the evidence, in particular, in relation to the country expert's report and the medical evidence. We are satisfied that, as a result, the judge's decision contained errors of law in failing to make adequate findings, even if the credibility of the evidence presented by the Appellant himself was found lacking.
8. The inadequacies would not of themselves have necessarily led us to conclude that the errors of law were material, given the country guidance case of MD. However, given the Respondent's submissions that the errors are material, despite the application of MD, we feel bound to decide that this case should be **remitted** to the First-Tier Tribunal for a fresh hearing, particularly given the need for the highest standards of fairness and anxious scrutiny of all evidence when considering protection claims.

9. The appellant should be aware that this does not mean that the next tribunal will allow the appeal. His case will be heard afresh and may be allowed or dismissed by the First-Tier Tribunal.

DECISION

The First-tier Tribunal decision involved the making of an error on a point of law.

The case is remitted to the First-tier Tribunal (Taylor House) for a substantive rehearing of the appeal. Judge Paul is excluded.

Signed

Date: 24 January 2022

T. Bowler

Deputy Upper Tribunal Judge Bowler