



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

Appeal Number: AA/08336/2013

THE IMMIGRATION ACTS

**Heard at Bradford
On 6 May 2014**

**Determination
Promulgated
On 22 May 2014**
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Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

ZAFAR KHAN

And

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Nicholson, Counsel, instructed by Legal Justice solicitors.
For the Respondent: Mr M Diwncyz, HOPO

DECISION AND DIRECTIONS

1. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Chana made following a hearing at Harmondsworth on the 16

September 2013, dismissing his appeal against the Respondent's decision to refuse to grant him asylum.

2. The appellant's claim is based upon his fear of the Taliban who he says are looking for him because they believe that he informed the authorities of their stay at a guest house owned by his family.
3. At the date of interview and at the hearing the appellant said that he was 15 years old. The judge relied on an age assessment carried out by Sheffield Social Services who concluded that he was over the age of 18.
4. The judge dismissed the appeal principally because of inconsistencies in his account.
5. The appellant challenged the determination on a number of grounds, in particular that the judge's reasoning was perverse and that she had reached her decision on credibility before considering his age.
6. Since the hearing Sheffield has revised its earlier view and now accept that the appellant's date of birth is as he claims, and that he is 15 years old.
7. The matter came before me on 2 occasions when the Presenting Officer asked for time to consider whether the original decision should be withdrawn. Nothing has transpired since those hearings.
8. Mr Diwncyz did not resist my suggestion that the proper course was for this decision to be remade in the First-tier Tribunal on the grounds that the judge had erred in law, through no fault of her own, in proceeding on the basis of a material mistake of fact, namely that she considered that he was an adult, and assessed his evidence accordingly, whereas he was and is a child.
9. The decision is set aside. The appropriate course is remittal to the first-tier tribunal. The case should be listed at Bradford before a judge other than Ms Chana.

Signed

Date

Judge of the Upper Tribunal