



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

Appeal Number: IA/49174/2013

THE IMMIGRATION ACTS

Heard at Field House

On 18th June 2014

Determination

Promulgated

On 01 July 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

MR MUHIBUR RAHMAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Badar, Legal Representative instructed by
Farani.Javid. Taylor, Solicitors

For the Respondent: Ms L Kenny, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Bangladesh whose appeal to be allowed to remain in the United Kingdom on the basis of his fourteen year continuous long residence here was dismissed by First-tier Tribunal Judge Fox in a determination promulgated on 27th March 2014.

2. Grounds of application were lodged on the basis that the judge was wrong to raise an allegation of deception which the Respondent had not raised in the refusal letter. In particular the judge had mentioned at paragraph 42 that it “is more likely than not that the appellant has procured false documents to support his attempt to migrate to the UK”. There was no evidence to support the judge’s findings that the letter by Shadwell Groceries was a false document. The judge stated at paragraph 49 that he did not accept other documents on the same basis and it was said to be an error of law for the judge to find that the documentary evidence was false.
3. Secondly, there was documentary evidence which the judge should have taken into consideration in deciding the appeal. Finally the respondent had acted against the principles of fairness by not considering the evidence before her.
4. Permission to appeal was granted by First-tier Tribunal Landes who noted that it

“is right that the judge could of course have dismissed the appeal on the basis that the documents were unreliable and he would have given much the same reasons for finding that the documents were unreliable. However it was arguable that if he erred in law in those paragraphs that error infected the rest of his evidence. Ground 2 appears much thinner insofar as it submits that the Respondent had acted against principles of fairness.”

5. Before me Mr Badar for the Appellant lodged the case of **Shen (paper appeal; proving dishonesty) [2014] UKUT 00236 (IAC)** in that the starting point should be as in the Court of Appeal in **Adedoyin (formally AA (Nigeria) v SSHD) [2010] EWCA Civ 773** that the reference to “false” means “dishonestly”.
6. Mr Badar stated that the judge’s use of the word false rendered the whole decision unsafe. In particular the death certificate at page 39 of the Appellant’s bundle should not have been found to have been an unreliable document. In addition document 11 was a crucial piece of evidence as the terms of that document proved the Appellant’s case. I was asked to allow the appeal and thereafter the matter should proceed to a re-hearing or alternatively a review on the papers.
7. For the Home Office Ms Kenny said that the point was a narrow one. The determination as a whole, read in context, showed that the judge had provided good reasons why he did not believe the Appellant and had gone on to dismiss the appeal. He had considered the evidence in the round. He had taken on board a considerable amount of oral and written evidence. He had taken great care to consider all of it together. He had explained very well why he was dismissing the appeal. There was nothing wrong in the use of the word “false”. There was no error in law and the decision should stand.

8. I reserved my decision.

Conclusions

9. I should say that Ground 2 of the application (relating to unfairness) was not argued before me no doubt because such an argument was not sustainable and it is therefore not necessary to say any more about it.
10. The judge's determination extended to ten pages and 68 paragraphs. He found that the Appellant was not a credible witness referring to a previous determination (paragraph 38). He noted that the Appellant was unable to provide an explanation for the inconsistent evidence relating to his alleged journey to the UK in 1997. The Appellant relied upon documentary evidence to demonstrate a journey to the UK which did not occur according to his own recollection (paragraph 39). In the next paragraph the judge had noted that the Appellant said he did travel via Dubai but could not recall this at the hearing. The judge noted this conflicted with alternative evidence that the Appellant travelled via Dhaka. The judge reminded himself that the Appellant also relied upon an unfortunate memory to address discrepancies at the earlier appeal as recorded in the determination. He pointed out that the witnesses led on the Appellant's behalf provided inconsistent evidence relating to his domestic residence in the UK (paragraph 44) and for reasons given noted that the inconsistencies damaged the credibility of the Appellant, and the witnesses Ripa and Abdul.
11. The judge went on to say that the Appellant and the witnesses had provided evidence inconsistent with evidence provided at the earlier appeal hearing - details are given (paragraph 48).
12. The judge commented that no reliable evidence had been provided to demonstrate that the Appellant's family members in Bangladesh had died "since the determination was promulgated or other explanation for the evaporation of family and socio-economic ties to Bangladesh since the last appeal hearing." In paragraph 52 he observed that the bank statements do not assist the Appellant. He noted that the bank statements demonstrated a transaction history beyond the modern stipend he claimed to be in receipt of.
13. He clearly considered the large bundle lodged by the Appellant and noted that the documentary evidence demonstrated his presence here from 2003 at best. He observed there was no reliable evidence to demonstrate why the Appellant should choose to reside in the UK from 1997 but only open a bank account and register for medical services in 2003. In essence the judge was saying that the documentary evidence relied on by the Appellant was unreliable adopting the well-known approach in **Tanveer**

Ahmed v SSHD [2002] UKIAT 00439. Had the judge simply said that the documents were unreliable it can safely be said that no appeal point would have arisen at all given that there is no challenge to his other numerous and detailed findings that the evidence of the witnesses contained material discrepancies.

14. The judge gave a number of clear and coherent reasons for not finding the Appellant credible which reasons are not impugned in the grounds of application. These were reasoned findings by the judge and quite sufficient to justify the dismissal of the appeal.
15. It follows there is no material error of law in the judge's findings and the determination must therefore stand.

Decision

16. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
17. I do not set aside the decision.

Signed

Date

Deputy Upper Tribunal Judge J G Macdonald