



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

Appeal Number: AA/01775/2014

THE IMMIGRATION ACTS

Heard at Field House

On 27 January 2015

**Decision &
Promulgated
On 3 February 2015**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

**MR A I
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. R. Spurling, Counsel.

For the Respondent: Mr. N. Bramble, Home Office Presenting Officer.

DECISION AND DIRECTIONS

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

1. 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 their family. This direction

applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

2. The appellant, born on 22 June 1989, is a citizen of Iran. His application for international protection was refused by the respondent on 30 September 2005. However, as he had arrived in the United Kingdom as an unaccompanied minor, he was granted discretionary leave to remain until 21 June 2007, the day before the appellant became 18 years of age. He appealed against the respondent's decision and that appeal was dismissed by an Immigration Judge in a determination promulgated on 20 December 2005. The appellant's appeal against that dismissal of his appeal by the first Immigration Judge was allowed and the Tribunal ordered the appeal to be reconsidered. Following reconsideration the appellant's appeal was once more dismissed by another Immigration Judge.
3. The appellant made further submissions on 11 February 2010 but the respondent refused them on 14 May 2013. Further submissions were likewise refused and the respondent again refused the appellant's asylum claim for reasons set out in a letter dated 4 March 2014. A decision to remove the appellant under Section 10 of the Immigration and Asylum Act 1999 was also made.
4. The appellant appealed and following a hearing at Taylor House Judge of the First-tier Tribunal Aujla, in a determination promulgated on 29 July 2014, dismissed the appellant's appeal.
5. In so doing the judge relied on the authority of **Devaseelan [2002] UKIAT 00702** in considering and coming to conclusions in relation to findings of credibility and fact.
6. The grounds seeking permission to appeal can be distilled to an error made by the judge in proceeding to hear this appeal and finding himself "**Devaseelan** bound" without having before him the earlier two determinations. The judge relied on quotes therefrom contained within the respondent's Reasons for Refusal Letter.
7. Initially permission to appeal was refused in the First-tier Tribunal but was subsequently granted by Upper Tribunal Judge Peter Lane on 5 December 2014 in the following terms:-
 - "1. It is arguable that there was procedural fairness in that the judge and the appellant did not have the complete determinations, upon which the judge applied Devaseelan. **The respondent is hereby directed to supply full copies to the appellant and the Upper Tribunal forthwith.**
 2. It is also arguable that the judge failed to have regard to relevant evidence in concluding that the appellant would not be at real risk on return, assessed at the date of the hearing."
8. Thus the appeal came before me.

9. I sought submissions from both representatives in relation to the **Devaseelan** point. Mr Spurling relied on the grounds seeking permission to appeal. Mr Bramble, although concerned about the procedural history and an argument as to whether or not adjournment applications had been made, argued that there was no unfairness to the appellant in the way that the judge had dealt with his appeal and particularly so as many of the extracts from the earlier determinations and contained within the refusal letter were in fact in favour of the appellant.

Notice of Decision

10. I find that in proceeding to deal with this appeal in the absence of the earlier determinations and relying solely on the respondent's refusal letter amounts to a procedural irregularity such as to be a material error of law. The error is such that it infects the totality of the judge's determination and causes me to set it aside. The appellant has been deprived of a fair hearing in the First-tier Tribunal. Therefore I remit this appeal back to the First-tier Tribunal to be dealt with afresh (de novo), pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b) before any other judge aside from Judge Aujla.

Signed

Date 2 February 2015.

Deputy Upper Tribunal Judge Appleyard