



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

Appeal Number: PA/02505/2015

THE IMMIGRATION ACTS

**Heard at : Field House
On : 6 June 2016**

**Decision &
Promulgated
On : 7 June 2016**

Reasons

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

SHILON MIAH

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Aghayere, instructed by MAC Solicitors

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Bangladesh born on 16 September 1987, claims to have arrived in the United Kingdom in 2008 with a working holiday-maker visa. He was served with removal papers as an overstayer in October 2012 when encountered working illegally in a restaurant, but he then absconded. He was encountered again in August 2015 working illegally in another restaurant

and was arrested and served with removal papers again. Removal directions were set for his removal to Bangladesh on 19 September 2015, but were deferred when he claimed asylum. His asylum claim was then considered and refused on 29 October 2015.

2. The appellant appealed against that decision.

3. The appellant's appeal was heard in the First-tier Tribunal on 22 January 2016 and was dismissed in a decision promulgated on 6 April 2016. First-tier Tribunal Judge Zahed, in dismissing the appellant's appeal, rejected his claim as entirely lacking in credibility and found that he would be at no risk on return to Bangladesh. He dismissed the appeal on asylum and human rights grounds.

4. Permission was sought by the appellant to appeal to the Upper Tribunal against Judge Zahed's decision, challenging both the asylum decision and the decision on Article 8 of the ECHR.

5. Permission was granted on 29 April 2016 only with respect to the grounds relating to Article 8, on the basis that the judge's reasoning was arguably inadequate.

6. At the hearing before me, Mr Aghayere, when referred by me to his skeleton argument before the First-tier Tribunal and to the judge's record of his submissions, agreed that Article 8 had been pursued before the Tribunal only outside the immigration rules. He agreed that the evidence before the First-tier Tribunal consisted only of the appellant's oral evidence, a small bundle of documentary evidence including the appellant's witness statement and a handwritten statement from the appellant's friend.

7. Mr Aghayere submitted that the judge had nevertheless failed to give proper consideration to the appellant's circumstances, including his length of residence in the UK and his strong ties to the UK, when dismissing the appeal on Article 8 grounds and that the appellant had not had a full opportunity to have his Article 8 claim properly considered.

8. Mr Tufan submitted that there were clearly no compelling circumstances existing outside the immigration rules and that the appeal could not have succeeded. There was therefore no material error of law.

Consideration and findings.

9. Whilst Judge Zahed's findings on Article 8 are limited, it cannot be said that he failed to have regard to the relevant issues. He found that the appellant could not meet the requirements of the immigration rules in relation to private and family life. There was no need for him to expand upon that finding, since it was never claimed by the appellant, or by his legal representative in his skeleton argument or submissions, that he could meet the requirements of the rules. Indeed, it is clear from the evidence and information before the judge that he could not.

10. As regards Article 8 outside the immigration rules, it is relevant to note that the judge's record shows that no submissions were made before him in that regard, and certainly none to the effect that there were any compelling or exceptional circumstances justifying a grant of leave outside the rules. The appellant's own statement before the First-tier Tribunal made no such suggestion either, referring to his ties to the UK only in relation to his fear of return to Bangladesh. The skeleton argument before the First-tier Tribunal did raise the matter but only in generalised, vague terms. Reference was made therein to family, social and cultural ties, but with no details. Mr Aghayere referred to a handwritten statement from the appellant's friend, but that, I note, referred only to his fear of returning to Bangladesh and plainly could not be taken in itself as evidence of significant ties to the UK.

11. There was, therefore, no particularised evidence before the judge of any meaningful ties the appellant had to the UK, other than his length of residence, which was a matter to which he did indeed refer at [30] in his findings on Article 8. The appellant's own evidence was that his close family members remained in Bangladesh. Accordingly, whilst the judge's findings on Article 8 were limited, there was little else that he could say. On the very limited evidence that he had before him, and considering that he had rejected the appellant's claim to fear persecution in Bangladesh, the judge could have reached no other decision. The appellant had no hope of succeeding in his Article 8 claim and certainly did not pursue his appeal with any particular emphasis on that ground.

12. Accordingly, it seems to me that the judge's findings on Article 8, albeit limited, nevertheless addressed all relevant matters and were adequately reasoned. However, even if it could be said that there was an error on the part of the judge in not expanding upon his findings and in failing to provide more detailed reasoning, it is clear that such an error was not material, in light of the limited evidence before him, the manner in which the case was presented to him and the lack of any merit in the appellant's Article 8 claim.

13. For these reasons I find that the appellant's grounds of appeal do not disclose any errors of law in the judge's decision.

DECISION

14. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Anonymity

The First-tier Tribunal made an anonymity order. I see no reason to continue that order and I therefore lift the order.

Signed
Upper Tribunal Judge Kebede

Date
7th June 2016