



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/01110/2018

THE IMMIGRATION ACTS

Heard at Field House
On 5th July 2018

Decision & Reasons Promulgated
On 24th July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SAINI

Between

HMEH
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Trumpington, Counsel
For the Respondent: Mr C Howells, Senior Office Presenting Officer

DECISION BY CONSENT AND DIRECTIONS

1. Pursuant to Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and by the consent of the parties the following order is made:

Upon the parties' agreement that the decision of the First-tier Tribunal promulgated on 28th March 2018 discloses a material error of law, it is hereby ordered by consent as follows:

- (i) The First-tier Tribunal Judge made errors of law in relation to the two Grounds of Appeal as pleaded by Appellant's previous Counsel in the following respects:
 - (a) Although the First-tier Tribunal Judge had accepted that the Appellant worked in a hospital used by the security services and was formerly employed as a member of the Qatari Royal Family, the Judge did not however find credible the Appellant's account as summarised at paragraph 7 of the Grounds and paragraph 45 of the First-tier Tribunal's decision. The First-tier Tribunal Judge erred in finding the documents by placing weight upon the Country Policy and Information Note in part at paragraph 8.1.1. Whilst the FTTJ referred to the first three paragraphs of paragraph 8.1.1, regrettably the Judge failed to refer to the fourth paragraph which states as follows and puts a different light on the first three paragraphs:

"Not all people with charges against their names (or trials or appeals pending) are automatically put on the warning list, and it is up to the Prosecutor-General to add their names. It is possible for names to be taken off the list, even if trials are pending. Should a person's lawyer request a name be taken off the list, it is the responsibility of the Prosecutor-General to show why the name should remain on it. There have been numerous cases where a person facing trial has had his or her name removed from the list, and subsequently travelled abroad without incident"; and
 - (b) In respect of paragraph 55 of the First-tier Tribunal's decision, as the Appellant's witness statement confirms at paragraph 10, her mother was approached by the security forces regarding her whereabouts and therefore not all evidence of the personal risk to the Appellant was considered.
- (ii) These are the two bases upon which the Secretary of State is prepared to accept that there are material errors of law, that is not to say that other areas may not exist in the First-tier Tribunal Judge's decision but given that these two errors are material I will not go on to consider the remaining grounds or errors as alleged.
- (iii) The decision is set aside in its entirety save for paragraphs 35 and 36 of the judge's findings of fact at the explicit request of both parties which makes clear that a certain portion of the factual matrix underlying the Appellant's protection claim is accepted by the Respondent and shall remain so accepted at any further hearing before the First-tier Tribunal.
- (iv) The matter is to be remitted to be heard by a Judge of the First-tier Tribunal other than Judge Adio.

2. The Appellant's appeal to the Upper Tribunal is therefore allowed.

3. The decision of the First-tier Tribunal is set aside for a legal error by consent.

Directions

4. As discussed by the parties, directions as requested by the parties shall follow in writing separately.

Anonymity

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

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her 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.

Signed

Date 15 July 2018

Deputy Upper Tribunal Judge Saini

