



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05335/2017

THE IMMIGRATION ACTS

Heard at Glasgow
on 26 July 2018

Decision and Reasons Promulgated
on 7 September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DEANS

Between

MR NASIR SALIM
(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J McCallum, Latta & Co, Solicitors

For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against a decision by Judge of the First-tier Tribunal Clough dismissing an appeal on protection and human rights grounds.
2. The appellant was born on 5 February 1984 and is a national of Somalia. The respondent accepted that he is from Chula island and the Judge of the First-tier Tribunal accepted the appellant's evidence that he is of Bajuni ethnicity. The judge dismissed the appeal on the grounds that although the appellant could not return to Chula there was a viable alternative of relocation to Mogadishu.
3. The decision of the First-tier Tribunal was challenged upon a number of grounds, among which were that (1) the judge's decision on relocation gave

insufficient regard to an expert report by Dr Bekalo; and (2) the judge had not properly applied the case law and, in particular, the country guideline case of MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442.

4. At the hearing before me Mr Govan, for the respondent, indicated that the decision of the First-tier Tribunal contained nothing to show that the judge had weighed the expert's report in accordance with the decision in MOJ & Ors. The appeal would not be contested on behalf of the respondent.
5. Taking into account the extent of agreement between the parties I am satisfied that the Judge of the First-tier Tribunal erred in law by failing to give adequate consideration to the expert report in accordance with the country guideline case of MOJ & Ors. The decision is set aside and requires to be remade.
6. It is not disputed that the appellant is a Bajuni from the island of Chula. Having regard to the expert report and to the country guideline case I accept that were the appellant to relocate to Mogadishu he would be faced with living in conditions of destitution below acceptable humanitarian standards. In these circumstances the alternative of relocation to Mogadishu is neither reasonable nor viable. Based on the findings which have been made the proper course is for the appeal to be allowed on protection grounds.

Conclusions

7. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
8. The decision is set aside.
9. I re-make the decision by allowing the appeal.

Anonymity

The Judge of the First-tier Tribunal did not make a direction for anonymity. I have not been asked to make such an order and see no reason of substance for doing so.

Fee Award (N.B. This is not part of the decision)

No fee has been paid or is payable therefore no fee award is made.

M E Deans
Deputy Upper Tribunal Judge

13th August 2018