



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

Appeal Number: PA/01670/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons**

**On 2<sup>nd</sup> April 2019**

**Promulgated  
On 09<sup>th</sup> April 2019**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL  
Ms G A BLACK**

**Between**

**MR MD FAKHAR UDDIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr T. Aitken (Counsel)

For the Respondent: Mr S. Kandola (Home Office Presenting Officer)

**ERROR OF LAW DECISION AND REASONS**

1. This is an error of law hearing. The appellant appeals against the decision of the First-tier Tribunal (Judge Loke) ("FtT") promulgated on 23.1.2019 in which the appellant's claim for protection and human rights was dismissed.

## **Background**

2. The appellant is a citizen of Bangladesh born on 01.01.63. He entered the UK on 19.12.2011. He claimed asylum on 8.3.2017. On 26.4.2010 he was kidnapped by 5 men who attacked, threatened and robbed him. The offence was reported to the police on 1.5.2010. The appellant produced an FIR and newspaper article which the respondent accepted were genuine [7]. There was no dispute that the appellant had been kidnapped. The issue under appeal was whether or not the motivation for the kidnap was for political reasons. The appellant stated in the screening interview that the kidnap was for financial reasons. The appellant later claimed in his substantive interview that he had been a member of the BNP since 2000, and that the kidnap was carried out by members of the Awami League (AL). The appellant claimed that he has taken part in political activities in the UK which would place him at risk on return.
3. In the refusal letter the respondent considered that the appellant's account was inconsistent as to the claimed motivation for the kidnap. His account in his screening interview made no mention of any political motivation. He introduced this element in his substantive interview. It was not accepted that he had any political interest or profile.

## **Grounds of application for permission to appeal**

4. In grounds of appeal the appellant argued that the FtT erred by failing to consider the background material that was capable of corroborating the appellant's claim, that kidnappings were carried out and motivated by political reasons, some kidnaps committed by security services and that the targets included individual affiliated with opposition parties (USSD Report 2016 6.1.3).
5. The FtT also failed to take into account that the charges were dropped which was further evidence of political motivation.

## **Permission to appeal**

6. Permission to appeal to the Upper Tribunal (UT) was granted by FTJ C Andrew.

## **Submissions**

7. At the hearing before me Mr Aitken expanded on the grounds of application. He referred to the skeleton argument that was provided for the FtT. The appellant had given reasons for why he had not raised political motivation at his screening interview and for why he had not provided the further information to the police.
8. In response Mr Kandola contended that the FtT had made some reference to the background material at [28]. The material stated that political motivation can be a reason for kidnapping. The FtT decision was thorough and reasoned. The FtT found that the appellant's claim based on political

motivation was not credible. The evidence was considered in the round and the conclusion sustainable having regard to the inconsistencies raised at a later stage by the appellant [20].

### **Discussion and conclusion**

9. Having heard the submissions and considered the grounds of appeal, I am satisfied that if there was an error of law by the FtT, it was not material. In a well reasoned and thorough decision and reasons the FtT properly considered the evidence in the round and gave reasons in support. I acknowledge that the FtT's only reference to the background material was at [28] when considering risk on return after having found the appellant's core claim lacking in credibility, and that the FtT made no explicit reference to any background material in assessing that credibility. I am nevertheless satisfied that this error was not material to the findings or decision made. The background material (as quoted above in paragraph 4) was set out in the skeleton argument that was before the FtT and was referred to in the decision and so it is clear that the FtT had taken it into account. I am satisfied that the findings and reasons remain entirely sustainable and that there would not have been a different outcome in the event that the FtT had specifically found that the material was capable of corroborating that aspect of the claim. The effect of the background material was to confirm that political kidnappings do occur. The FtT was entitled to conclude that the appellant's failure to raise the political motivation in his screening interview damaged the credibility of his claim. Indeed the findings were wider than that, the FtT had regard to the fact that when asked about the motivation for the kidnap, the appellant stated that there was no political motivation and that the kidnap was for financial reasons. The appellant had every opportunity to give that basic information at the time of his screening interview and did not do so. I acknowledge that the FtT may not have taken into account the appellant's explanation for not informing the police that the kidnap was for political reason when it came to his attention after the issue of the FIR. His failure to do so would have been reasonable if indeed the motivation was political, but I find that this was not material or capable of displacing the overall findings and reasons reached by the FtT. Mr Aitken further submitted that the reason for the charges being dropped was evidence that there was political motivation; this in my view was entirely speculative. The FtT found that the appellant was not a member of the BNP and that his sur place activities were an attempt to bolster his claim. The FtT took into account further inconsistencies in the appellant's evidence such as the attempts made by the authorities to trace him [23]. The FtT also took into account the appellant's delayed claim for asylum and found that section 8 (Immigration & Asylum (Treatment of claimant's etc) Act 2004 applied.
10. There is no material error of law disclosed in the decision which shall stand.

### **Decision**

11. The appeal is dismissed.

Signed

Date 2.4.2019

GA Black  
Deputy Judge of the Upper Tribunal

NO ANONYMITY ORDER

NO FEE AWARD

Signed

Date 2.4.2019

GA Black  
Deputy Judge of the Upper Tribunal