



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

Appeal Number: PA/02060/2018

THE IMMIGRATION ACTS

**Heard at Cardiff Civil Justice Centre
On 26 April 2019** **Decision & Reasons Promulgated
On 29 May 2019**

Before

**MR C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE GRUBB**

Between

**JAGANNATH [S]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Bhuiyan of Londonium Solicitors

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh who was born on 3 March 1982. He entered the United Kingdom on 13 October 2009 as a Tier 4 (General) Student with leave valid until 27 October 2013. He returned to Bangladesh on 5 January 2011 and returned to the UK on 20 January 2011 on his student visa. On 25 May 2011, the appellant's wife and daughter entered the UK.

2. On 22 October 2013, the appellant applied for further leave to remain as a Tier 4 (General) Student which was granted until 30 August 2015. On 1 September 2015, the appellant applied for further leave to remain based upon his private and family life. This application was refused on 16 January 2016.
3. Then, on 20 January 2017, the appellant applied for asylum. His wife and daughter were dependants upon his application and claim.
4. On 24 January 2018, the Secretary of State refused the appellant's application for asylum, humanitarian protection and on human rights grounds. That decision was appealable to the First-tier Tribunal by the appellant. No appealable decisions were made in respect of the appellant's wife and daughter. Nevertheless, all three lodged notices of appeal with the First-tier Tribunal. In respect of the appellant's wife and daughter, the Duty Judge (Judge S Kaler) determined on 13 February 2018 that there were no valid appeals as no appealable decisions had been made in respect of them. That conclusion was clearly correct.
5. The appellant's appeal came on for hearing before the First-tier Tribunal on 26 July 2018. In a determination promulgated on 23 August 2018, Judge Lever dismissed the appeal on all grounds. However, in doing so, Judge Lever appears to have understood there to be appeals before him brought, not only by the appellant, but also by his wife and daughter. They are referred to in the heading of the determination and the appeal file numbers, created by the First-tier Tribunal when they lodged their notices of appeal, are also set out in the determination heading.
6. The appellant sought permission to appeal. On 19 September 2018, the First-tier Tribunal (Judge O'Keeffe) granted the appellant permission limited to a single ground, namely that Judge Lever had been wrong in law to determine (and dismiss) appeals by the appellant's wife and daughter because they had no valid appeals in the absence of an appealable decision being made against each of them by the Secretary of State.
7. The respondent filed a rule 24 response on 1 November 2018 accepting the jurisdictional point upon which permission had alone been granted.
8. At the hearing before us, Mr Mills, who represented the Secretary of State, accepted that Judge Lever had been wrong to purport to determine appeals in respect of the appellant's wife and daughter as they had no valid appeals as the Duty Judge had already determined.
9. Mr Bhuiyan, who represented the appellant, invited us to strike out the appeal decision in relation to the appellant's wife and daughter. He did not seek to pursue the appeal on any further ground before us and indicated that matters had now been raised by the appellant which might form a fresh claim.

10. In our judgment, the only appeal before Judge Lever concerned that of the appellant. There were no valid appeals brought by the appellant's wife and daughter as no appealable decisions had been made in respect of them.
11. Judge Lever's decision to dismiss the appellant's appeal on all grounds stands - and it was not challenged before us. But, for the avoidance of doubt, to the extent that Judge Lever purported to determine (and dismiss) appeals brought by the appellant's wife and daughter, he had no jurisdiction to do so as no appealable decision had been made in respect of either of them. To that extent, therefore, Judge Lever's determination is not to be understood as determining any appeal in respect of the appellant's wife and daughter.

Signed



A Grubb
Judge of the Upper Tribunal

Dated 29 May 2019