



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/10106/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 7th May 2019**

**Decision & Reasons Promulgated
On 22nd May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

MR M D SABUZ MIAH
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Lee of Counsel
For the Respondent: Mr Tufan

DECISION AND REASONS

Introduction

1. The Appellant born on 2nd January 1989 is a citizen of Bangladesh. The Appellant had originally come to the United Kingdom in October 2009 on a student visa. He made a claim for asylum on 14th July 2017. That appeal had been refused by the Home Office on 20th December 2017.
2. The Appellant had appealed that decision and his appeal was heard by Judge of the First-tier Tribunal Sweet sitting at Hatton Cross on 18th February 2019. The judge had dismissed the Appellant's appeal on all grounds.

3. Application for permission to appeal to the Upper Tribunal had been made on behalf of the Appellant and permission granted on 1st April 2019 by the First-tier Tribunal on the basis that it was arguable the judge had failed to give adequate reasons for finding the Appellant's account was not credible and had failed to take relevant evidence into account and further had failed to give adequate reasons for conclusions reached in respect of Section 8.
4. Directions were issued for the matter to firstly be decided by the Upper Tribunal on the question of whether or not an error of law had been made by the First-tier Tribunal and the matter came before me in accordance with those directions.

Submissions on Behalf of the Appellant

5. Submissions were made in line with the Grounds of Appeal. It was submitted that the decision of the judge was too brief and having rejected the Appellant's account in its entirety there needed to be an adequacy of reasoning. It was said that the decision was limited to three brief paragraphs in respect of findings. The first paragraph appeared to focus on the limited involvement of the Appellant's political career but the Appellant had never claimed that he was involved in politics at any high level, his concern was rather the position of his father. Secondly it was said that the paragraph dealing with Section 8 had no "punchline" so it was impossible to say whether Section 8 had been taken into account and if so to what extent.

Submissions on Behalf of the Respondent

6. It was submitted that it would have been an error of law if the judge had not considered any political involvement of the Appellant although it was conceded there was no real finding made by the judge in respect of Section 8.
7. I concluded that a material error of law had been made and provide my decision and reasons as follows.

Decision and Reasons

8. There is nothing inherently wrong in brevity and indeed if adequately reasoned much to commend such style and decision writing.
9. In this case the judge's findings are confined to three paragraphs (paragraphs 31 to 33). The decision does not disclose any misunderstanding on the part of the judge as the basis of the Appellant's claim. He was clear that the Appellant's claim arose essentially from that which had occurred allegedly to his father in November 2014 as a result of his father's political position. It is understandable that the judge referred in part to the Appellant's own political involvement in Bangladesh and in the UK for the sake of completeness.

10. Unfortunately, there is an inadequacy of reasoning within those three paragraphs and an inherent error. The judge began his reasoning at paragraph 31 by stating “for various reasons I have found the Appellant’s claim wholly lacking in credibility”. At paragraph 31 the first point the judge finds damaging the Appellant’s credibility is his lack of political involvement in Bangladesh and the UK. Whilst it is understandable the judge refers to the Appellant’s own political career and understandable that he would find no risk on return in respect of that career, it was an error to find that the Appellant’s inherent lack of political involvement affected his credibility. The Appellant had never sought to suggest his involvement at any higher or different level. The issue of credibility needed to focus on whether the Appellant was at risk in respect of his father’s alleged activities – position – disappearance.
11. Paragraph 32 considered the Appellant’s late claim for asylum and the effect of Section 8 upon credibility. The judge was obliged to consider Section 8. However it is entirely unclear what conclusion the judge reached in respect of that matter and whether he made an adverse credibility finding and if so what weight he attached to it in his overall assessment of the case. In a decision providing several or longer findings in respect of credibility that short coming in respect of Section 8 may not necessarily have led to a material error but in such a brief set of findings that lack of credibility in one of only three pertinent paragraphs has a material effect. Although the judge provided further reasons at paragraph 33 they did not address core issues that needed to be considered, for example the suggestion that the Appellant would be at risk because he would be perceived and want to seek vengeance against those who had detained – ill-treated his father.
12. The combination of brevity together with the error in paragraph 31 of making a finding adverse to the Appellant’s credibility when such was not an issue together with the lack of clarity in relation to findings under Section 8 means that there was unfortunately an inadequacy of reasoning such that that inadequacy led to a material error of law.

Decision

13. A material error of law was made by the First-tier Tribunal Judge such that the decision of the First-tier Tribunal should be set aside and the matter heard afresh in the First-tier Tribunal before a judge other than Judge Sweet or Judge Telford.

No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Lever

Date



