



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002954
First-tier Tribunal No:
PA/524272021
IA/08387/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 03 April 2023

Before

UPPER TRIBUNAL JUDGE CANAVAN
DEPUTY UPPER TRIBUNAL JUDGE G. BLACK

Between

M C
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P. Jorro, instructed by Legit Solicitors
For the Respondent: Ms S. Cunha, Senior Home Office Presenting Officer

Heard at Field House on 15 March 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 14 May 2021 to refuse a protection and human rights claim.
2. First-tier Tribunal Judge J. G. Raymond ('the judge') dismissed the appeal in a decision sent on 29 April 2022. The decision is 57 pages long, comprising of 234 paragraphs, with some paragraphs long enough to fill a whole page without a

break. The first 44 pages of the decision are devoted to setting out evidence, which was known to both parties, in minute detail, along with some sporadic findings. In short, the length of the decision is disproportionate to the issues that needed to be determined and renders it unwieldy for the reader to digest.

3. The judge began his main findings at the end of page 45 and went on to give a series of reasons why he considered the appellant's evidence to be implausible with, in the end, little reference to the underlying evidence, little or no adequate consideration of the concessions already made by the respondent, and with no balanced consideration of the evidence that might support the appellant's account. The judge described one of the appellant's explanations in response to the reasons for refusal as verging 'on the completely incoherent' [206] and comprehensively rejected the credibility of the appellant's account as a 'complete and cynical fabrication' [217]. In our assessment, the tone of some of the findings were personal and inappropriate to a judicial decision. For example, the judge described the appellant's *sur place* activities as a 'creative and fictitious exercise on his part, to bolster the fiction of his asylum claim' [224]. This was even more inappropriate considering the respondent's concession that the appellant had been politically active in Bangladesh. The Joycean drafting style is difficult to read. Many long unfocussed sentences render some of the findings themselves incoherent.
4. The appellant applied for permission to appeal to the Upper Tribunal on the following grounds:
 - (i) The judge erred in going behind the concessions already made by the respondent in the decision letter about the level of the appellant's political activities in Bangladesh;
 - (ii) The judge erred in his approach to the assessment of the appellant's *sur place* activities; and
 - (iii) The judge made irrational findings that were not open to him on the evidence.
5. Upper Tribunal Judge Jackson granted permission to appeal describing the decision as 'difficult to read'. We agree with this observation, as did the parties at the hearing before the Upper Tribunal. The overall tone of the findings read as a determined list of reasons to disbelieve the appellant, without any balanced view of the evidence that might support the claim. Ms Cunha accepted that the judge had departed from concessions made in the decision letter about the level of the appellant's political activities without giving him a fair opportunity to respond. Although she did not go so far as to agree that the other grounds were made out, she accepted that the overall findings were undermined by the first error and that the case would need to be reheard.
6. In light of this concession, it is not necessary for us to go into detail as to why the decision involved the making of an error of law. We agree that the judge's findings relating to the appellant's political activities went behind concessions that had already been made by the respondent. We also agree that the findings relating to the appellant's political activities in the UK failed to understand the chronology of events properly. As a matter of fact, the evidence did not show that his activities only took place 'in the wake of the refusal' [226]. The appellant arrived in the UK in April 2019 and claimed asylum shortly after. Some of the evidence from organisations with which he has been involved in the UK testified

to activities well before the respondent's decision dated 14 May 2021. In general terms, we also agree with the submissions made in the third ground, that some of the judge's other credibility findings were made without reference to relevant evidence or were outside a range of reasonable responses to the evidence.

7. We conclude that the First-tier Tribunal decision involved the making of errors of law. The decision is set aside. Given that no findings can be preserved, the case will be remitted to the First-tier Tribunal for a fresh hearing.

Notice of Decision

The First-tier Tribunal decision involved the making of an error on a point of law
The case is remitted to the First-tier Tribunal for a fresh hearing

M.Canavan

Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 March 2023