



IN THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-001360

First-tier Tribunal No: PA/52880/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 16<sup>th</sup> of July 2024

Before

UPPER TRIBUNAL JUDGE REEDS

Between

A H  
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K. Khan on behalf of the appellant

For the Respondent : Mr A. McVeety, Senior Presenting Officer

Heard at (IAC) on 10 July 2024

DECISION MADE PURSUANT TO RULE 40 OF THE TRIBUNAL PROCEDURE ( UPPER  
TRIBUNAL) RULES 2008

1. The appellant appeals with permission against the decision of the First-tier Tribunal Judge (hereinafter referred to as the "FtTJ") who dismissed the appellant's protection and human rights appeal in a decision promulgated on the 10 February 2022 .
2. Permission to appeal that decision was sought and on 27 June 2022 permission was granted by UTJ Rimmington.

Anonymity:

3. The FtTJ did make an anonymity order and no grounds were submitted during the hearing for such an order to be discharged. Anonymity is granted because the facts of the appeal involve a protection claim.

Rule 14: The Tribunal Procedure(Upper Tribunal) Rules 2008: Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

4. The appellant is a citizen of Iran, who appealed to the First-tier Tribunal (“FtT”) against a decision to refuse his protection and human rights claim. His claim was based on his imputed political opinion based on his father’s profile and his own political opinion as expressed through his sur place activities. In a decision promulgated on 10 February 2022, the FtTJ dismissed the appeal. Permission to appeal having been granted the appeal was listed for hearing. At the hearing of the appeal, Mr McVeety on behalf of the respondent conceded that the decision of the FtTJ involved the making of material error of law as set out in the appellant’s grounds and as summarised by UTJ Rimmington.
5. Part of the grounds challenge the assessment of credibility based on a mistake of fact as to the evidence given before the Judge Tobin in the appeal brought by the appellant’s mother. The decision referred to the evidence at paragraph [15] which included a copy of passport for A H (not the appellant’s name but his brother) and in the same paragraph a witness statement from Mr H. Later on the Judge described the person who had given evidence as not needing an interpreter ( paragraph [17] and that he did not live with his mother but had travelled from another city ( at paragraph [27]). At the time of the hearing the appellant was a child and was a dependant on her claim and the profile of the person who gave evidence is not consistent with the appellant but his brother. Notwithstanding the attempts of the FtTJ to clarify this and the written statement ( but not signed) it is accepted that there was confusion as to the identity of the person who gave evidence, and this error had also found its way into the decision letter ( at paragraph 39).
6. The parties are in agreement that the decision discloses the making of an error of law and that the adverse credibility findings made at [19] and at [21] and [22] were made in error and as these were the starting point of her assessment the error of fact necessarily affected the overall assessment of credibility.
7. In terms of remaking the decision, it is evident that both parties agree that the credibility findings are flawed on the protection claim so that none of the findings of fact are sustainable. Both parties have invited the Upper Tribunal to set aside the decision and in view of the fact finding that is necessary on all parts of the claim both submit that the appeal should properly be remitted to the First-tier Tribunal. I have given careful consideration to the Joint Practice Statement of the First-tier Tribunal and Upper Tribunal concerning the disposal of appeals in this Tribunal and have done so in light of the submissions of the parties. I have considered the issues in the light of the practice statement recited and the recent decision of the Court of Appeal in AEB v SSHD[2022] EWCA Civ 1512 and the decision in Begum [2023] UKUT 46(IAC. ) As to the remaking of the decision I am satisfied that in light of the errors of law identified and the fact findings which will be necessary, the appeal falls within paragraphs 7.2 (a) and (b) of the

practice statement. I therefore remit the appeal to the First-tier Tribunal for that hearing to take place.

8. Accordingly I am satisfied that it would in all circumstances be appropriate to set aside the decision in its entirety and for it to be remitted to the First-tier Tribunal to be heard afresh.
9. Rule 40 of the Tribunal Procedure (Upper Tribunal) rules 2008 allows the Upper Tribunal to give a decision orally at a hearing. Rule 40 (3) states that the Upper Tribunal must provide written reasons with a decision notice to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings. Rule 40 (3) provides exceptions to the rule if the decision is made with the consent of the parties, or the parties have consented to the Upper Tribunal not giving written reasons. In this case the parties consented to a decision without reasons pursuant to Rule 40(3) of the Tribunal Procedure (Upper Tribunal) Rules 2008. I am satisfied that the parties have given such consent at the hearing.

### **Decision**

10. The decision of the First.-tier Tribunal involved the making of an error on a point of law; the decision is set aside and shall be remitted to the First-tier Tribunal to be heard afresh.

Upper Tribunal Judge Reeds  
Upper Tribunal Judge Reeds

10 July 2024