



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-002058

First-tier Tribunal No: HU/56521/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 22<sup>nd</sup> of October 2024

**Before**

**UPPER TRIBUNAL JUDGE MEAH**

**Between**

**Haji Nizam Uddin Ahmed**  
**(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr Arafin, Shahid Rahman Solicitors

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

**Heard at Field House on 17 October 2024**

**DECISION AND REASONS**

**Introduction and Background**

1. The appellant appeals against the decision of First-tier Tribunal Judge Juss promulgated on 04 March 2024 ("the decision"). By the decision, the Judge dismissed the appellant's appeal against the respondent's decision dated 03 May 2023, refusing his application to remain in the UK on human rights grounds.

**The Grounds**

2. In summary, the grounds raised challenging the decision were that the Judge had made incorrect and inadequate findings.
3. Permission to appeal was granted by Upper Tribunal Judge O'Brien on 01 August 2024, in the following terms:

“1. The appellant seeks permission in time to appeal against the decision of First-tier Tribunal Judge Juss, dismissing his appeal against the respondent’s decision to refuse his human rights claim.

2. The grounds assert in essence that the judge was biased, gave inadequate reasons for findings against the appellant and a supporting witness, failed to attach correct weight to supporting evidence, failed to apply ss117B(2)&(3) in the appellant’s favour, approached the issue of the appellant’s grandmother irrationally, and so failed properly to assess proportionality.

3. It is arguable that the judge failed to give adequate and/or logical reasons in [19] (apparently contained in the first half of that paragraph) for finding that the appellant ‘s claim was ‘simply not credible’.

4. The other grounds have less apparent merit but, taking a pragmatic approach, I do not restrict permission. In particular, the allegation of bias arising from the judge’s alleged interjection, ‘None of that is true’, whilst arguably supported by the judge’s accusation of misconduct by the supporting witness, is unlikely to succeed without supporting evidence (including confirmation that the remark is audible on the recording of the hearing and where it can be found).”

4. There was no Rule 24 response from the respondent.

5. That is the basis on which this appeal came before the Upper Tribunal.

### **The hearing and submissions**

6. Both representatives made submissions which I have taken into account and these are set out in the Record of Proceedings and need not be repeated here.

### **Discussion and conclusions**

7. Following preliminary discussions at the outset of the hearing, Mr Tufan stated that the respondent conceded that the grounds of challenge were made out. This was to the extent that the Judge had erred in his assessment of the Article 8 ECHR claim specifically in relation to the appellant’s private life claim. It was noted that the Judge stated at [20] that the appellant had “given next to no details of his private life” whereas in fact there was over 200 pages worth of evidence on this, as was set out in the index to the appellant’s bundle placed before the First-tier Tribunal which the Judge appears to have missed entirely, or otherwise failed to consider. In other words, it was difficult to reconcile the Judge’s comments that there was next to no evidence, when the reality was that there was substantial evidence upon which the appellant had sought to rely in pursuit of his private life claim which he had duly presented to the First-tier Tribunal. Mr Tufan accepted that the Judge needed to consider this evidence and make findings on it, even if it was the case that he ultimately rejected the private claim after such consideration. However, he appears to have missed it altogether, and this therefore amounted to a material error of law.

8. Further, though not material to the decision the Judge also noted incorrectly at [1] that the respondent had refused an asylum claim when the appellant had not in fact applied for protection and the appeal was brought against refusal of human rights claim. The Judge also misgendered the appellant. It was not in any event necessary for me make findings on this or the other grounds raised, and in particular the Judge's comments at [19], that he had already made up his mind on the appellant's lack of credibility before considering any of the evidence, although I concur with Upper Tribunal Judge O'Brien who granted permission that it was arguable, at the very least, that by pronouncing at the outset in unequivocal terms that the appellant's claim was 'simply not credible' was capable of affirming the impression that he might have already made up his mind before considering any of the evidence.
9. I am satisfied Mr Tufan's concession was fairly and sensibly made. I informed the parties that I did not seek to go behind the respondent's concession, and I accept that there were material errors of law in the Judge's decision as argued in the grounds seeking permission.
10. I therefore set aside the decision of the Judge.
11. Accordingly, in applying **AEB [2022] EWCA Civ 1512** and **Begum (Remaking or remittal) Bangladesh [2023] UKUT 46 (IAC)**, I have considered whether to retain the matter for remaking in the Upper Tribunal, in line with the general principle set out in statement 7 of the Senior President's Practice Statement. I consider, however, that it would be unfair for either party to be unable to avail themselves of the two-tier decision-making process.

### **Notice of Decision**

12. The decision of the First-tier Tribunal sent to the parties on 04 March 2024, involved the making of a material error of law. It is set aside in its entirety.
13. The appeal is remitted back to the First-tier Tribunal at Manchester to be heard by any judge other than First-tier Tribunal Judge Juss.

***S Meah***  
**Judge of the Upper Tribunal**  
**Immigration and Asylum Chamber**

**18 October 2024**