



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003663

First-tier Tribunal No: HU/60049/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 18 November 2024**

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

**Muhammad Nasir Uddin
(NO ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M West of Counsel, instructed by Imran & Co Solicitors

For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

Heard at Field House on 5 November 2024

DECISION AND REASONS

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Jarvis promulgated on 10 June 2024, in which the Appellant's appeal against the decision to refuse his human rights claim dated 7 August 2023 was dismissed.
2. The Appellant is a national of Bangladesh, born on 1 January 1978, who entered the United Kingdom unlawfully on 4 April 2007 and has remained here without leave since. The Appellant claimed asylum in March 2017, which was refused by the Respondent on 17 November 2017 and his appeal against refusal was dismissed on 11 January 2018. An application for leave to remain outside of the Immigration Rules was made on 7 July 2021, which was initially refused and not accepted as a fresh claim under paragraph 353 of the Immigration Rules on 23 July 2022, but subsequently reconsidered on 7 August 2023, with the refusal maintained but a right of appeal given.

3. The Respondent refused the application the basis that the Appellant had not established any family life in the United Kingdom and therefore did not meet any of the requirements of Appendix FM of the Immigration Rules. Further, he did not meet the requirements of paragraph 276ADE of the Immigration Rules for a grant of leave to remain on private life grounds as there would be no very significant obstacles to his reintegration in Bangladesh given that he speaks Bengali, has his father and siblings still living there and would be able to keep in touch with friends. The Appellant's claim to be suffering from PTSD and mental health problems was considered, but the Respondent found that there was a lack of up to date medical evidence on this and in any event, there were mental health services available in Bangladesh. It was noted that in the Appellant's previous appeal, the First-tier Tribunal found that there were no insurmountable obstacles to the Appellant's return to Bangladesh. In terms of Article 8 of the European Convention on Human Rights, the only additional factor considered was the Appellant's poor immigration history and overall, the Appellant's removal would not be a disproportionate interference with his right to respect for private life. The Respondent gave separate consideration to the Appellant's claimed medical conditions under Article 3 of the European Convention on Human Rights, but found that the high threshold for such a claim was not met in this case.
4. Judge Jarvis dismissed the appeal in a decision promulgated on 10 June 2024 on all grounds. In summary, the Judge accepted that the Appellant was suffering from a major depressive episode, most likely caused by his current lack of status in the United Kingdom, but a suicide risk had not been established and he was not suffering from PTSD. The medical evidence on the latter was rejected primarily because it was predicated on claimed events in Bangladesh in 2006 which had not been found to be truthful in the Appellant's previous appeal and a copy of that decision had not been given to the report author. In addition, the Appellant had not raised any mental health problems during the course of his previous appeal. The medication currently taken by the Appellant was available in Bangladesh. Overall, there was no breach of Articles 3 or 8 of the European Convention on Human Rights. There were no very significant obstacles to reintegration in Bangladesh where his siblings, wife and two adult children lived (it being accepted that his father had passed away) and it was not accepted that family members would not assist the Appellant nor that he would be at risk of destitution on return. The Appellant would be able to work on return and also likely to receive some ongoing support from those currently assisting him in the United Kingdom.

The appeal

5. The Appellant appeals on two grounds as follows. First, that the First-tier Tribunal erred in law in failing to properly consider all of the available medical evidence in the round and specifically in concluding that the lack of sight of the previous appeal decision to the medical report was fatal to the weight to be attached to it, in particular because the Appellant was recorded in 2017 as having PTSD, which pre-dated the earlier appeal. Secondly, that the First-tier Tribunal materially erred in law in failing to consider the Appellant's mental health as part of the Article 8 assessment.
6. At the oral hearing, Mr West submitted in essence that the First-tier Tribunal had failed to attach sufficient weight to the psychologist report because of what was found to be a mistaken belief in the Appellant's claims of past persecution; but in circumstances where the Appellant's GP records show entries relating to PTSD in

2017 and 2018 which were not considered by the Judge (but were before the expert). When asked why, in circumstances where the earlier GP records referred to the same discredited factual matrix as the psychologist how the First-tier Tribunal would have come to any different conclusion if those specific records had been referred to, Mr West submitted that the Judge could have rationally reached a different conclusion on whether the Appellant was suffering from PTSD because there was a range of different medical professionals who had referred to the condition. He did however accept that in the context of the First-tier Tribunal rejecting other similar evidence also from 2017 that there was some difficulty in the submission.

7. On the second ground of appeal, Mr West submitted that the First-tier Tribunal simply failed to take into account the Appellant's mental health, even the accepted chronic depressive symptoms, as part of the balancing exercise for Article 8. Although the Judge had already made findings that medication was available in Bangladesh, the Appellant would have family support on return and his mental health would not restrict his ability to work; Mr West submitted that as these findings were not expressly made or adopted as part of the Article 8 assessment, they could not be read in to the reasoning for that part of the decision. In addition, there was no express consideration anywhere in the decision as to the Appellant's claim that he would be subject to social stigma on return to Bangladesh due to his mental health.
8. On behalf of the Respondent, Ms Isherwood submitted that there was no material error of law in the First-tier Tribunal's decision with the grounds of appeal amounting to no more than disagreement with the weight attached to parts of the evidence and the findings overall. In terms of the medical evidence, it was clear on the face of the decision that all of the evidence had been considered and it is not necessary for each and every document to be referred to in the decision. It was further noted that the GP records from 2017 and 2018 also included an end date for PTSD after a matter of months, which combined with the cause being identified as the same rejected factual matrix, meant that this part of the evidence did not in any event assist the Appellant. The Judge gave clear reasons for rejecting the part of the evidence as to PTSD, whilst accepting the Appellant's depression and considering it as part of the overall assessment. The Appellant's likely circumstances on return to Bangladesh were considered, as were the Appellant's current activities in the United Kingdom. All relevant factors were properly considered and weighed in the final balancing exercise. It was submitted that there was no need for a Judge to repeat the same findings in different sections of a decision, they were cumulative.

Findings and reasons

9. The first ground of appeal does not disclose even an arguable error of law by the First-tier Tribunal in relation to its assessment of the medical evidence, let alone an actual material error. In circumstances where the parts of the medical report in relation to the Appellant's claim be suffering from PTSD were rejected on the accepted basis that the Appellant had told Ms Da Silva that the underpinning reason for his mental health problems was his previous experience in Bangladesh (specifically his claim to have been attacked in 2006 for political reasons) but no copy of his previous appeal determination had been provided, which entirely rejected that account; it would not have been rationally open to the Judge to conclude that a reference to PTSD in GP reports from 2017 and 2018 based on the same discredited factual matrix would have been accepted or led to

greater weight being attached to the later expert report on PTSD. This is particularly so in circumstances where there was express reference in paragraph 35 of the First-tier Tribunal's decision to a similar letter from 18 December 2017 referring to poor mental health stemming from traumatic events in Bangladesh, which was also rejected for the same reasons, including that this was not something raised by the Appellant at the time of his asylum appeal in 2018. The decision also includes express consideration of later medical evidence from 2023 and 2024; all of which raise the same common issue that they are predicated on the Appellant's asylum claim which was found not to be credible and in which PTSD was not raised. There is no requirement for the Judge to have referred to each and every piece of medical evidence, particularly so when in the present appeal, all of the medical evidence was consistently based on the same discredited account. The fact that there were a range of sources all on the same basis could not have rationally led to any different conclusion than the one reached.

10. The second ground of appeal also fails to identify any error of law by the First-tier Tribunal. There is no requirement or expectation that findings within the decision have to be repeated in each and every section to which they are or may be relevant to show that they have been properly taken into account. In the present appeal, there were clear findings as to the current and likely circumstances of the Appellant in terms of availability of medical treatment in Bangladesh, of support from friends and family on return and as to his mental health not affecting his ability to engage currently in variety of activities in the United Kingdom or his future ability to work in Bangladesh. These findings were all properly in the mind of the Judge throughout the decision and there is nothing to suggest that they were not taken into account in the final balancing exercise. In any event, given the specific findings that had been made, which were comprehensive as to all relevant matters, the Appellant's mental health could not rationally tip the balance in his favour in the final balancing exercise to outweigh the public interest in removal.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of a material error of law. As such it is not necessary to set aside the decision.

The decision to dismiss the appeal is therefore confirmed.

G Jackson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

13th November 2024