



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001706

First-tier Tribunal No: HU/51931/2023
LH/04704/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 20 January 2025**

Before

**UPPER TRIBUNAL JUDGE SHERIDIAN
DEPUTY UPPER TRIBUNAL JUDGE WEBB**

Between

**MOHAMED RASEL MIAH
(NO ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Z Hussain (Solicitor)

For the Respondent: Mr E Terrell (Senior Home Office Presenting Officer)

Heard at Field House on 10 January 2025

DECISION AND REASONS

1. In a decision dated 16 September 2024 the Upper Tribunal identified an error of law in the decision of the First-tier Tribunal. We now remake the decision in this appeal.
2. The error of law decision preserved the findings of Judge Zahed at paragraph 16-22 of the First-tier Tribunal decision dated 11 January 2024.

Preliminary issues

3. This appeal had originally been listed for a re-hearing on 25 October 2025 but was adjourned because of non-attended by counsel. In response to directions Mr Hussain provided a witness statement, and having considered his explanation we are satisfied that no criticism arises.

Issues in dispute

4. At the start of the hearing the parties agreed that the issues for us to decide are as follows:
 - a. Are there very significant obstacles to the appellant integrating in Bangladesh, so that he would meet 276ADE(1)(vi) of the immigration rules;
 - b. In the alternative, are there unjustifiably harsh consequences so that the decision breaches the appellant's rights under article 8 ECHR.

Evidence and submissions

5. The appellant gave evidence and followed the proceedings with the use of a Sylheti interpreter, neither the appellant nor the interpreter indicated any difficulties in understanding each other.
6. The appellant and his cousin, Mr Ahmed, both gave evidence: they confirmed their witness statements and were cross examined by Mr Terrell.
7. After we heard evidence, Mr Terrell and Mr Hussain both made submissions.
8. We have made a note of the evidence and submissions in the record of proceedings and have taken it all into account, along with the documentary evidence provided in the consolidated bundle provided by the appellant. Page references will be to this bundle unless otherwise stated.

Legal framework

9. In this appeal the burden is on the appellant to show that the decision unlawfully interferes with his rights protected by article 8 ECHR. The standard of proof is the balance of probabilities.
10. If the appellant meets the requirements of the immigration rules any interference in their rights protected by article 8 is not proportionate, TZ (Pakistan) [2018] EWCA Civ 1109.
11. Under paragraph 276ADE(1)(vi) of the immigration rules, the requirements to be met by an adult applicant who has lived continuously in the UK for less than 20 years at the date of application are that "there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK."
12. The concept of "integration" for the purposes of 276ADE(1)(vi) requires a broad evaluative assessment of whether the applicant will be enough of an insider in terms of understanding how life in the society in the country of return is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.
13. If an appellant does not meet the immigration rules, the public interest is normally in refusing leave to enter or remain. The exception is where refusal

results in unjustifiably harsh consequences for the appellant or a family member such that refusal is not proportionate. We take into account the factors set out in s.117B Nationality Immigration and Asylum Act 2002 and balance the public interest considerations against the factors relied upon by the appellant.

Findings

14. We have not set out every point or piece of evidence, only those that are most important to our decision. In making our findings we have considered all the evidence we were provided.
15. It is not disputed by the parties that the appellant lived in Bangladesh until he was 25 years old and that he speaks Sylheti. It is also agreed that the appellant entered the UK in November 2010 and has not returned to Bangladesh since his arrival in the UK.
16. We find that appellant will have created a private life with his cousins and friends during the time he has lived in the UK. This is supported by the evidence of Mr Ahmed and the letters of support contained in the bundle (page 174 - 183)
17. The appellant maintains that the obstacles to his integration in Bangladesh stem from his medical conditions and lack of support available to him there.
18. The medical evidence about his mental health condition is in the form of reports from Dr R Hussain (page 83) and Dr M Farooqi (page 94), along with updating letters from them (pages 48-49) , and his GP records(page 99 - 173).
19. In light of the preserved findings of Judge Zahed in the First-tier tribunal, we place little weight on medical reports in assessing the severity of the appellant's mental health condition.
20. We do place weight on the contents of the GP records that show (page 100) that he has been prescribed medication for depression and we find on the balance of probabilities that the appellant did have depression in May 2023.
21. The appellant has provided no up-to-date evidence of any further treatment he has required to deal with the symptoms caused by his poor mental health. We find that if his mental health continued to have an adverse effect on his ability to undertake day to day tasks, evidence would be reasonably be available to show that he continues to take medication or use other treatment methods. We find that the absence of such evidence undermines the appellant's claims about the severity of his poor mental health.
22. In light of the above we find that the appellant's mental health does not have a significant adverse effect on his ability to undertake day to day activities.
23. We find that the appellant has previously had kidney stones that required medical intervention, but that treatment was ultimately successful as demonstrated by his GP records.
24. The appellant maintains that he has no family in Bangladesh to whom he could turn to for assistance on his arrival. His evidence before the First-tier Tribunal, recorded at paragraph 15 of Judge Zahed's determination, was that there was a land dispute with family in Bangladesh which has resulted in a breakdown of the

relationship he has with any remaining family. He repeated the same claim before us.

25. Mr Terrell in his submissions asked us to place no weight on this claim: it was an important part of the appellant's account but was not raised in his witness statement. The first mention of it was in oral evidence at the hearing before the First-tier Tribunal. Mr Terrell's submission was that the late disclosure of this evidence damaged the credibility of the account provided by the appellant.
26. We agree with that submission. In addition, the account provided by the appellant before us about any land dispute did not have any detail beyond bare assertions and we find this further damages the credibility of the appellant's account.
27. Mr Terrell made further submissions about the appellant's general credibility. The appellant denied working in the UK, but in a letter from his consultant dated March 2017 it is recorded that he was working in a restaurant (page 137). The appellant's explanation for this was that the person who he went with must have said that, but he did not.
28. We find the explanation provided by the appellant to not be credible, the detail provided in the letter about the pain causing discomfort while working suggests the reasons for obtaining medical care was because of those difficulties while working. In addition, Mr Ahmed, was frank and clear in his evidence before us that the appellant had been working in a restaurant until 4-5 years ago. We find the appellant was not telling the truth when denying that he worked in the UK and this we find significantly damages his credibility.
29. Having considered all the evidence before us we find the appellant is not in a land dispute with family members in Bangladesh as he has claimed.
30. The appellant's own account is that his mother was in the care of his cousin in Bangladesh while she was ill. If the appellant had any concerns about their ability to provide appropriate support for his mother it was open to him to return to Bangladesh, that he did not do so suggests that there is a family relationship that exists that he could turn to for support should he require it.
31. In light of the above we find that the appellant has family in Bangladesh who would be in a position to provide some support, at least on a temporary basis, and that the appellant would have access to his former family home.
32. The appellant says that he would not now be able to find employment in Bangladesh, his evidence was that he has previously worked as a mechanic in Bangladesh. He has, we find, previously worked in a restaurant in the UK.
33. The only evidence the appellant has provided about difficulties in obtaining employment in Bangladesh relates to age limits for applying for government jobs (page 188 to 194). There is no suggestion from the appellant that he would be limited to applying for a job with the Bangladeshi Government and we find that the evidence provided has little weight in assessing his employment prospect on return to Bangladesh.

34. We find the appellant would not be restricted in obtaining access to the labour market in Bangladesh and has useful skills as a mechanic and from the hospitality sector that he could use to obtain employment.
35. In his submission Mr Hussain alluded to the appellant having cognitive difficulties that may also adversely affect his access to the labour market. The only evidence on which he relied in making those submission was that of Mr Ahmed contained in his witness statement.
36. It was not submitted that Mr Ahmed has any expertise or particular experience that would enable him to provide an expert opinion or diagnosis in relation to any cognitive difficulties. We find in light of that that the opinion of Mr Ahmed holds little weight and find that the appellant does not have cognitive difficulties that would adversely affect his ability to enter the labour market.

Conclusions

37. We are satisfied that article 8 is engaged as the appellant has created a private life in the UK.
38. In relation to 276ADE(1)(vi), the issue is not whether the appellant has made the UK their home but whether the appellant has become so estranged from Bangladesh that he would no longer be able to establish a meaningful life there.
39. The appellant has been in the UK for just over 14 years, he was brought up and lived in Bangladesh until 25 years old, he was economically active there. He speaks Sylheti. He has family in Bangladesh and access to his family home.
40. Although the appellant has depression his mental health does not have a significant effect on his ability to undertake day-to-day activities or his ability to enter the labour market. He has useful skills as a mechanic and in the hospitality industry.
41. We accept the appellant may face some difficulties on return, having been absent from Bangladesh for 14 years.
42. However, applying a broad evaluative judgment and remembering the high threshold of the test, we find there are not very significant obstacles to the appellant's reintegration in Bangladesh.
43. Taking into account our findings above, although Article 8(1) is engaged, the immigration rules are not met. The public interest lies in the maintenance of effective immigration controls. To strike a fair balance between the competing public and individual interests involved, we adopt a balance sheet approach.
44. We weigh the following public interest factors against the appellant:
 - a. The maintenance of effective immigration controls is in the public interest.
45. We weigh the appellant's private life factors in his favour in particular:
 - a. The length of the appellant's stay in the UK since 2010, this length of stay has enabled him to form a limited private life in the UK.

46. We weigh in the appellant's favour any difficulties that he may face returning to Bangladesh after an absence of 14 years, even though we have found they do not amount to very significant obstacles.
47. We have regard to the statutory consideration that little weight should be given to a private life established by a person at a time when the person is in the UK unlawfully or their immigration status is precarious. We give little weight to the appellant's private life formed while in the UK.
48. Looking at the overall picture of the circumstances as we have found them to be, we find the factors raised by the appellant do not outweigh the public interest in removal. The decision does not lead to unjustifiably harsh consequences .
49. In light of the above we find the decision does not breach the appellants rights as protected by article 8 of the ECHR.

Notice of Decision

50. The decision is remade.
51. The appeal is dismissed on human rights grounds.

N Webb

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

13 January 2025