



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: AA/02354/2013

THE IMMIGRATION ACTS

**Heard at Manchester Piccadilly
On 3rd July 2013**

**Determination Sent
On 9th July 2013**

Before

**UPPER TRIBUNAL JUDGE D E TAYLOR
DEPUTY UPPER TRIBUNAL JUDGE D BIRRELL**

Between

SEBLE BERHE HAGOS

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Timson instructed by Blavo and Co Solicitors

For the Respondent: Mr G Harrison Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. We have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence we do not deem it necessary to make an anonymity direction.

2. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Lever who dismissed her appeal on the 11th April 2013.

Background

3. The Appellant claimed to be a citizen of Eritrea. She applied for asylum on the 18th but the Respondent refused her application on the 11th February 2013 and a decision was taken to remove her by way of directions under paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971.
4. The Appellant's claim was that she was born in Assab in Eritrea but then moved to Ethiopia at the age of about 1 with her family. They were deported back to Eritrea when she was 15. The Appellant stated that her family were Pentecostal Christians and she had been detained in 2002 after the police detained her at a house church. Her uncle bribed the police to secure her release and also arranged for agents to take her to Sudan. She remained in Sudan for four years working for a Saudi family and when they left she used an agent to leave Sudan and take her to Greece where she remained for two years. The Appellant's claim was that she was at risk in Eritrea because she had escaped from prison and left the country illegally. The Respondent did not accept that she was Eritrean.
5. The Appellant appealed to the First-tier Tribunal and on 11th April 2013 First-tier Tribunal Judge Lever (hereinafter called "the Judge") dismissed her appeal against the Respondent's decision. Grounds of appeal were lodged on the basis in essence that the Judge had erred in law in that he had provided inadequate reasons for his findings on credibility and that he had failed to properly apply the guidance in ST Ethiopia [2011] UKUT 00252 and on 14th May 2013 Designated First-tier Tribunal Judge Zucker gave permission to appeal on all grounds.

Hearing

6. At the hearing we heard submissions from Mr Timson on behalf of the Appellant that :
 - a. He relied on the grounds of appeal.
 - b. In relation to paragraph 53 of the Judge's determination it was unfair of the Judge to dismiss the evidence of the Appellant's attempts to obtain an

Ethiopian passport in the light of ST. The client was in a difficult position as the solicitors will have told her what she was expected to do in relation to claiming a passport from the Ethiopian Embassy and that if she did not this would be used against her.

- c. This was a determination with a lot of findings but few reasons. The fact was that she had used agents to leave Eritrea and therefore to suggest that they did not have the funds was nonsensical. There were no reasons given for the findings that the family were not in a position to bribe the police to secure her release or use agents to leave Sudan.

7. On behalf of the Respondent Mr Harrison submitted that :

- a. He relied on the Rule 24 response.
- b. The Judge's determination was lengthy and contained a number of strong findings which were directed not only at her but at those who advised her.
- c. The Judge was entitled to find that it was hardly surprising that the Ethiopian Embassy refused to provide her with a passport given her claim and her inability to provide any evidence.
- d. The Judge's findings were very full, thoroughly sensible , well considered and reasoned and the conclusions were open to him.
- e. The Judge found that the Appellant had little or no credibility and having found that dismissed her appeal.

Finding on Material Error

8. Having heard those submissions we reached the conclusion that the Tribunal made no material errors of law.
9. The Judge set out at paragraph 31 of his determination that all matters including basic details such as her name, date of birth and country of nationality, depended on the Appellant's credibility. The Judge then analysed her account in great detail between paragraphs 33 and 54 and made well reasoned credibility findings based on his analysis of the evidence.
10. It is suggested in the grounds of appeal that the Judge failed to give reasons for his finding that the Appellant's failure to speak Tigrinya undermined her claim to be Eritrean. The Judge had noted that the Appellant spoke Amharic which is the

national language of Ethiopia rather than Tigrinya which is the main official language of Eritrea. He recognised that this of itself did not demonstrate that she was not a national of Eritrea however we are satisfied that the Judge then set out clear reasons why he found that the Appellant's inability to speak any Tigrinya undermined her claimed nationality. The Judge sets out the reasons at paragraphs 34 to 37. The Judge found that the Appellant's declared inability in her screening interview to speak even a little Tigrinya was of concern given that her mother spoke Tigrinya; that she lived with her mother in Eritrea until she was 15; that she herself claimed to speak a little English and Arabic in addition to Amharic which suggested that she was able to learn other languages even within a short period of time. Given all of these factors the Judge was entitled to conclude that her lack of use of Tigrinya or knowledge of the language undermined her claimed nationality.

11. It was argued that the Judge was not entitled at paragraph 39 to make an adverse credibility finding on the basis that the Appellant described herself as a Protestant rather than a Pentecostal. However we are satisfied that the Judge was entitled to make that finding given that the core of the Appellant's account was that she was a committed Pentecostal from birth and would appreciate the '*significant difference*' in the description (paragraph 39) and yet gave her religion as Protestant in the Screening Interview. There was no suggestion that the Appellant misunderstood the question being asked she simply stated Pentecostal Christians would describe themselves as Protestant if asked for their religion. The Judge was entitled in her circumstances to find this explanation as lacking in credibility.

12. The Judge made findings in relation to the credibility of the Appellant's assertion that her release from detention was secured by bribery and that she used agents in the course of her flight at paragraphs 45 to 48 which it is suggested are confused and lack clarity. We are satisfied that the Judge set out his reasoning with clarity and was entitled to take into account the findings that he had made in relation to the modest circumstances of her uncle and family generally in reaching the conclusion that this did not '*lend itself to the sort of money that*

would have been required' in both the circumstances of the bribe and payment of agents to leave Eritrea.

13. It was argued that the Judge in paragraph 53 held it against the Appellant that she was unable to secure an Ethiopian passport and therefore had misunderstood or misapplied the guidance in ST. We are satisfied that the Judge has not misunderstood the findings in that case given that the ratio of the case was that judicial fact finders will consider whether those who claim to have been arbitrarily deprived of Ethiopian nationality have approached the Ethiopian Embassy in order to assert their identity with the relevant supporting documentation. This was not the Appellant's claim. She claimed to be an Eritrean and the Judge was entitled to conclude that this was the basis on which she approached the embassy with no evidence to suggest that she was entitled to an Ethiopian passport. We are satisfied that he was entitled to conclude therefore that her attempt to obtain an Ethiopian passport did not assist her claim given that her claim given that background. The Judge concluded that this was a *'cynical and disingenuous ploy'* on the advice and instructions of her solicitors to attempt to bring her within the terms of ST and in the circumstances of her claim he was entitled to come to that conclusion.

14. We are satisfied moreover that the Judge made it plain that he did not make an adverse credibility finding against the Appellant in relation to this as he accepted that the impetus behind the application was that of her representatives.

15. It was finally argued that the Judge was not entitled to find that the letter from the Eritrean Community in Lambeth dated the 14th March 2013 carried no evidential weight. The Judge considered this document in detail at paragraph 54 of the determination and set out a number of reasons why he concluded that the letter was of no evidential weight: the Appellant had never lived in London and yet the letter describes her as a *'member of our community since 2013'*; the letter was based on a 15 minute meeting with the author of the letter; the letter is a generic proforma with the only original addition being the Appellant's name; that it was difficult to see how the author was able to assert that the Appellant was an Eritrean on the basis of the 15 minute meeting as there was no indication of what specific enquiries or tests they had carried out in relation to her in that 15

minutes. It was open to the Judge on the basis of those findings that the letter carried no evidential weight although again he made clear that as he found that it was produced at the request of her solicitors he did not make an adverse credibility finding against her.

16. We were therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

CONCLUSION

17. **We therefore found that no errors of law have been established and that the Judge's determination should stand.**

DECISION

18. **The appeal is dismissed.**

Signed

Date 6.7.2013

D. Birrell

Deputy Upper Tribunal Judge Birrell