



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/08094/2010

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 20 June 2013**

**Determination  
Promulgated  
On 4 July 2013**

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**Before**

**UPPER TRIBUNAL JUDGE CRAIG**

**Between**

**MS SHI HAI YUN**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms G Loughran, Counsel, instructed by Lawrence & Co Solicitors

For the Respondent: Ms A Everett, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, whose date of birth is given as 1 January 1992, is a national of the People's Republic of China. Her appeal against the respondent's refusal to grant her asylum was dismissed by Immigration Judge Lobo, and her appeal against this decision was dismissed by Upper Tribunal Judge Waumsley. Subsequently, the appellant was granted permission to appeal to the Court of Appeal and it was ordered by consent that the appeal be allowed, that the determinations of Upper Tribunal

Judge Waumsley and First-tier Tribunal Judge Lobo be set aside and that the matter be remitted to the Upper Tribunal for a case management review hearing.

2. In accordance with this order, this appeal then came before me on 1 March 2013, when, as recorded in my note of hearing following that hearing, it was agreed on behalf of both parties that there should be a full re-hearing of the appellant's substantive appeal. As I also recorded, both parties agreed that this appeal should be remitted to the First-tier Tribunal, because substantial fact-finding would be required and the grounds of appeal regarding the decision of the First-tier Tribunal were effectively that there had been misdirections in law. Both parties agreed that the appellant had not yet had one fair hearing of her appeal.
3. For reasons which are set out in my note of hearing following the hearing on 1 March 2013, it was then necessary to adjourn the hearing in order for the appellant to be seen by the Helen Bamber Foundation, and it was proposed that when the appeal was next before me, I would then make a determination remitting the appeal to the First-tier Tribunal.
4. Accordingly, I will now record my finding that there were significant errors of law in Judge Lobo's determination which are material, for the reasons which were accepted by the Court of Appeal when it ordered that Judge Lobo's determination be set aside.
5. I have had regard to paragraph 7 of the Practice Statements for the Immigration and Asylum Chamber of the Upper Tribunal and consider that the effect of the errors contained within Judge Lobo's determination are such that the appellant was effectively deprived of a fair hearing. I also consider that the nature and extent of the judicial fact-finding which will now be necessary in order for the decision to be re-made is such that, having regard to the overriding objective, it is appropriate to remit the case to the First-tier Tribunal (as has been accepted on behalf of both parties) and I shall so order.
6. I record that it has been arranged that this appeal will be listed for re-hearing at Taylor House on 1 October 2013 with a time estimate of 2 hours, and that Ms Loughran has been notified of this date and should be available to represent the appellant at that hearing.

### **Decision**

**The determination of First-tier Tribunal Judge Lobo having been set aside as containing a material error of law, I direct that this appeal be remitted for a re-hearing by the First-tier Tribunal, sitting at Taylor House, to be put before any judge other than First-tier Tribunal Judge Lobo.**

Signed

Date: 3 July 2013

Upper Tribunal Judge Craig