



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/03677/2015**

THE IMMIGRATION ACTS

**Heard at Bradford
On 27th January 2016**

**Decision & Reasons
Promulgated
On 22nd February 2016**

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**N H
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Salmon, Bradford Law Centre
For the Respondent: Mrs R Petterson, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Turnock made following a hearing at Bradford on 30th April 2015.

Background

2. The appellant is a citizen of Bangladesh born on 28th July 1990. He came to the UK following a successful appeal against a refusal of a visit visa arriving on 25th December 2010. He claimed asylum on 26th February 2014, having overstayed his six month visit visa, saying that if returned to Bangladesh he would face the risk of persecution and serious harm because of his sexual orientation. He also claimed a fear of family members following a dispute over ownership of land.
3. The judge, in a careful and detailed determination, set out all of the evidence and the submissions which were made on the parties' behalf. He considered the question of the appellant's sexuality, and his evidence that he had had a relationship whilst in Bangladesh, and said that he had been consistent in his assertions in relation to that relationship which he accepted had taken place.
4. He also accepted that the appellant was considered by his family to be of limited intelligence and that, together with the sexual relationship with the older boy, would be matters which would be of concern to them. On a limited number of occasions they did act violently, probably out of frustration towards him. However, the incidents were isolated, not persistent and he was taken to see an Imam and a Mufti, neither of whom sought to inflict punishment on him. There were no serious threats to cause him physical harm.
5. He concluded that the family decided it would be better for them and if he were sent out of the country and they therefore made a concerted effort to obtain a visit visa to the UK where he had some family. Those efforts involved the production of false documentation. The judge was satisfied that the family had continued to produce further false documentation and he specifically rejected a letter said to have come from the family which he said did not reflect their feelings towards him but which was designed to support an application to enable him to remain in the UK.
6. He concluded that the appellant was not at risk of serious harm or persecution from members of the family.
7. The judge then considered in detail the question of whether the appellant would be at risk as a homosexual man in Bangladesh. The country information before him did not support the assertion that he would be at risk of persecution on return. He examined the expert report from Mr Ashraf Ul Hoque in relation to relocation. He said that it was likely that the appellant would become a constituent of half of the country's population living below the poverty line should he return to Bangladesh and relocate to another part of the country. The judge said that poverty and discrimination could not found the basis for a claim for asylum and humanitarian protection.
8. He said that the evidence in relation to the land dispute was vague and unsubstantiated. There was no significant risk of suicide and no

argument that the appellant should be allowed to remain on Article 3 or Article 8 grounds.

9. He dismissed the appeal.

The Grounds of Application

10. The appellant sought permission to appeal, in summary, that the grounds the judge had erred in not regarding the family's treatment of the appellant as persecutory, had erred in relation to the assessment of reasonableness of relocation and had not made any findings on the evidence of the appellant's sister.
11. Permission to appeal was granted by Deputy Upper Tribunal Judge Mahmood on 27th July 2015. He said that the determination was thoughtful and careful but considered that the grounds merited further consideration.
12. The respondent served a reply defending the determination on 18th August 2015.

Submissions

13. Mr Salmon amplified his grounds. He submitted that the judge had been illogical in concluding that the appellant would not be attacked by his family again and had come to the unlawful conclusion that the violent behaviour to which he had been subjected was not persecutory. He was particularly vulnerable, being of low intelligence, and the judge had understated the gravity of the behaviour meted out to him.
14. He also submitted that the judge had not applied the relevant case law in relation to internal relocation; the appellant would be subject to extreme deprivation which could be the foundation for the grant of humanitarian protection. It was not acceptable to expect him to relocate and to live in extreme poverty.
15. Mrs Petterson defended the determination. She said that the judge had given clear reasons for his decision. The judge had set out the evidence in relation to what had happened to the appellant when he was living with his family, was entitled to find that it was not treatment amounting to persecution and there was no real risk of repetition on return. There was no error in his assessment of internal flight. The appellant would not be in a worse position than many other Bangladeshis and in any event would have the benefit of the assisted voluntary return schemes.

Findings and Conclusions

16. There is no error of law in this determination.
17. So far as the family was concerned, the judge set out the evidence which was that his brother had thrown a stone at him on one occasion which had hit him on the right side of his forehead. Subsequently he had punched

him on the body on quite a few occasions and not long afterwards his mother had hit him on his arm and his back. The judge described those incidents as having been isolated and having taken place on a limited number of occasions. There can be absolutely no quarrel with his assessment since it is firmly based on the appellant's own evidence. The judge was quite right to conclude that the appellant was not at risk of serious harm or persecution from members of his family based on their past behaviour towards him.

18. So far as the evidence from the appellant's sister was concerned, the judge dealt with the letter which was said to have been sent to her by the family and gave wholly sustainable reasons for finding that the letter was not evidence that the family genuinely wished him harm. He assessed R B's evidence and said that she felt clear compassion for her brother and was seeking to assist him but was plainly entitled to find that since there was no attempt to put any of the dire warnings contained in the letter into effect when the appellant was in Bangladesh there was no reason to conclude that they would do so if he returned.
19. It was not argued that the appellant's family would seek to do him harm if he lived apart from them in Bangladesh. The judge considered the question of relocation and the report of Dr Ul Hoque. Dr Hoque records the figures for the percentage of the population below the income poverty line in Bangladesh as being 49.6%. The fact that the appellant might be below the poverty line is not a basis for concluding that relocation would not be reasonable. The situation in which he would find himself is no different to half the population of Bangladesh.
20. The appellant's case was not put on the basis that he wanted to live as an openly gay man in Bangladesh. It seems that he had only one brief relationship whilst there and there has been no reference to any relationships in the UK nor any desire to live in any other way than he did before. There is no challenge to the judge's conclusions that the country information did not support the assertion that the treatment of homosexual men there amounted to persecution.
21. This is an exceptionally thoughtful and well reasoned comprehensive determination. The grounds put forward arguments which were made to the judge but rejected by him for the reasons which he gave. His conclusions are unassailable.

Decision

22. The original judge did not err in law. The appellant's appeal is dismissed and the judge's decision stands.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify

him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Upper Tribunal Judge Taylor