



Upper Tier Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/49356/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 22 January 2016

Decision & Reasons Promulgated  
On 3 February 2016

Before

Deputy Upper Tribunal Judge Pickup

Between

MD Farhad Hussain  
[No anonymity direction made]

Appellant

and

Secretary of State for the Home Department

Respondent

**Representation:**

For the appellant: Mr T Shah, instructed by Taj Solicitors

For the respondent: Mr S Staunton, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, MD Farhad Hussain, date of birth 31.10.96, is a citizen of Bangladesh.
2. This is his appeal against the decision of First-tier Tribunal Judge Cameron promulgated 22.6.15, dismissing his appeal against the decision of the Secretary of State, dated 18.11.14, to refuse his application for further leave to remain in the United Kingdom on the basis of private and/or family life and to remove him from the UK pursuant to section 47 of the Immigration Asylum and Nationality Act 2006. The Judge heard the appeal on 22.6.15.

3. First-tier Tribunal Judge Landes granted permission to appeal on 5.11.15.
4. Thus the matter came before me on 22.1.16 as an appeal in the Upper Tribunal.

### **Error of Law**

5. For the reasons set out below I find no error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Cameron to be set aside.
6. In granting permission to appeal Judge Landes found it arguable that the judge erred in his approach to whether family life existed between the appellant and his family in UK. "The judge explained that having considered the evidence overall he was not satisfied there was a dependency going beyond normal emotional ties between the appellant and his siblings [116]. Although the judge did not explain his findings further, it may be that the reason for his findings lay in the earlier paragraph i.e. that the appellant had not lived with his sister for many years and had been in part supported by his foster family [115]. It is arguable however that the reasons provided are not adequate given the judge's earlier acceptance that the relationship between the appellant and his sister was more like mother and son [110], the judge's comments at [114] about the extremely close contact the two enjoyed despite the fact they did not live together, and the judge's rejection of family life between the appellant and his foster family based at least in part on his findings that the appellant had maintained his ties to his own family members and had relied on them for support [118]."
7. I have carefully considered the grounds of appeal. There is no dispute with the findings of facts as found by the judge, many of which, as has been pointed out, are favourable to the appellant's case. The judge very carefully set out the relevant background, summarised all the oral evidence and submissions in some considerable detail, and in the main correctly directed himself on the law before setting out his findings of fact and credibility from §93 onwards. It cannot be said that the judge ignored or failed to take into account all those factors now relied on by the appellant. However, the essence of the appellant's case, as enlarged on by Mr Shah's helpful submissions, is that on those findings the judge should have reached a different conclusion as to the extent of family life with his sister, and to a lesser degree with his brothers, all of whom are settled in the UK, and whether the interference with that family life which would be occasioned by his removal was proportionate.
8. The Rule 24 reply, dated 18.11.15, submits that "The grounds are mere disagreement with the judge's assessment of the evidence – there is no misdirection in law, the judge's reasons are adequate – the grounds are in reality an irrationality challenge and that very high threshold has not been met in this case."
9. In MA (Somalia) [2010] UKSC 49, it was said that "Where a tribunal has referred to considering all the evidence, a reviewing body should be very slow to conclude that that tribunal overlooked some factor, simply because the factor is not explicitly referred to in the determination concerned."

10. In Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC), the Tribunal held that (i) Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge; (ii) Although a decision may contain an error of law where the requirements to give adequate reasons are not met, the Upper Tribunal would not normally set aside a decision of the First-tier Tribunal where there has been no misdirection of law, the fact-finding process cannot be criticised and the relevant Country Guidance has been taken into account, unless the conclusions the judge draws from the primary data were not reasonably open to him or her.
11. I find that the judge was reasonably entitled to reach the conclusion, set out at §116 of the decision, that on the evidence before the Tribunal that he was not satisfied that the appellant and his sister have a dependency which goes beyond normal emotional ties, having already pointed out that whilst he has maintained “extremely close contact” he is now 18 years of age, and has not lived with his sister for a number of years, having been raised by a foster family for some 5 years. I find that conclusion was properly and adequately reasoned and is neither perverse nor irrational. Whilst there are factors going to the strength of the relationship between the appellant and his sister, including those relied on in the grounds of application for permission to appeal, it is clear the judge did not overlook or ignore those factors and was careful to set them out. It does not necessarily follow, however, that the judge was obliged to reach the decision the appellant contends for. To this extent, the grounds are in effect a disagreement with the decision and do not disclose an error of law.
12. Although she granted leave on all grounds, Judge Landes found little merit in the grounds alleging a failure of the proportionality assessment. Considering that “the strength of the grounds lies in the argument that the erred in his approach to family life” the judge rejected the ground that the judge failed to apply the article 8 proportionality exercise, referring to §128 and §146, and stating, “Given the terms of section 117B, I do not see that the judge’s ultimate conclusion can be faulted if the appellant only enjoys private life with his siblings.” With that part of the grant of permission I respectfully agree.
13. It was also relevant to the proportionality assessment that the appellant could not meet the requirements of the Immigration Rules for leave to remain and that, pursuant to section 117B of the 2002 Act, immigration control is in the public interest, and by the same provision little weight should be given to a private life developed whilst the appellant’s immigration status was precarious, as it clearly was.
14. I am satisfied that the grounds amount to no more than a mere disagreement with the conclusions drawn and that no error of law is disclosed.

**Conclusions:**

15. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



**Signed**  
**Deputy Upper Tribunal Judge Pickup**

**Dated**

**Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order. Given the circumstances, I make no anonymity order.

**Fee Award**                      **Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: The appeal has been dismissed and thus there can be no fee award.



**Signed**  
**Deputy Upper Tribunal Judge Pickup**

**Dated**