



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04015/2017

THE IMMIGRATION ACTS

Heard at Field House
On 17 November 2017
Prepared 17 November 2017

Decision & Reasons Promulgated
On 18 December 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MR SHAHADOT CHOWDHURY
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearances
For the Respondent: Mr D Clarke, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Bangladesh, date of birth 1 November 1984, appealed against the Respondent's decision, dated 11 April 2017, to refuse his asylum and protection claim as well as rejecting a claim to be in need of Humanitarian Protection or protection under Articles 2 and 3 ECHR. In addition, the Appellant had raised Article 8 private life issues.
2. The centrepiece of the Appellant's claim is that he is gay, in a relationship in the United Kingdom and were he to return to Bangladesh he would, by reason of his sexuality, be at risk of persecution and he would wish to conceal his sexuality only because he feared persecution back in the home country.
3. His appeal before First-tier Tribunal Judge P S Aujla, in his decision [D] on 6 June 2017, was dismissed the appeal on all grounds.
4. The Appellant attended the hearing in the FtT with his representative, a Mr Miah of counsel, instructed by solicitors who it seems may not be those who are currently on record under the name of Sony Sadaf Haroon Solicitors of St Albans, Hertfordshire.
5. Permission to appeal was given by First-tier Tribunal Judge Shimmin on 20 September 2017 on the basis that the judge may have made an arguable material error of law in refusing an application to adjourn so that a material witness could attend. The Respondent provided a Rule 24 response that in general terms argued that the judge had given full and cogent reasons for refusing the adjournment application and that there had been nothing unfair in proceeding with the hearing. The Secretary of State also made the point in the response that the Appellant had had two weeks notice of the hearing date before the judge, and even now no clear reasons had been given as to why the witness, the

Appellant's claimed partner, was unable to make arrangements to attend the hearing. Indeed, it is less than clear where the Appellant's partner was at the material times. I decided to proceed for there was no explanation of absence orattempts to contact on record but received no reply.

6. The Judge heard an application for an adjournment from Mr Miah and set out the matter [D12] and the Secretary of State's opposition to that application. The Judge fairly set out the consideration he gave to the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 and noted when notice of the hearing had been given and he was satisfied ample time had been available to arrange for the witness to return to the UK for the hearing. Nothing had been provided to indicate in advance of the hearing that the intended witness, Mr Sohel Ahmed, would not be able to attend, nor seeking a postponement of the hearing of the appeal, nor it seems was there any explanation given as to why he had arranged matters so that he did not attend.
7. The Judge gave reasons why he refused that application and those are more than sufficiently set out in the decision. The judge recites at [D15 and 16] the somewhat unusual circumstances and the fact that counsel decided, when it was clear that there was not going to be an adjournment, that he would not appear for the Appellant. The Appellant attended the hearing and he chose not to participate in it, at least after the refusal of the adjournment application, the decision had been made. The Judge said in the decision he intended to proceed with the hearing, but it seems in the face of the decision for Mr Miah and the Appellant decided not to take part. He was left with the position of dealing with this matter on the documents that were provided and

hearing the submissions from the Respondent who remained at the hearing. The appeal was not dealt with on the papers.

8. The Judge then set out, having considered the papers, the adverse conclusions which he reached on the Appellant's claim to be a gay man, said he had been so since the age of 15, and who feared the consequences of his gay sexuality on a return to Bangladesh. The Judge concluded, having considered the Appellant's case that the Appellant's credibility was wholly damaged. He concluded, for reasons that he gave, that the Appellant was not a gay man, nor in such a relationship as claimed with Mr Sohel Ahmed. He took into account, as he was properly entitled to, the fact that the Appellant had been in the United Kingdom for a significant number of years, and the lateness of the claim, ultimately been made, to need protection. The Judge was entitled to reach the views he did. If the reasoning is brief that perhaps reflects the limitations of the matter being unable to hear any evidence from and cross-examination of the Appellant, and the lack of submissions made by the Appellant or Mr Miah. There is nothing to suggest through the grounds that had there been representations made, any different decision would have been reached.

9. The grounds of appeal do not argue that the Judge has ignored material evidence or misapplied such evidence as he took into account. In the circumstances it seemed to me that the judge proceeding with this matter neither acted unfairly, nor made any procedural error of law, nor caused an unjust decision to be arrived at, and it is notable that the grounds which are settled it appears by the representatives, Sony Sadaf Haroon, Solicitors, do not highlight any evident failure to consider evidence submitted on behalf of the Appellant or his intended witness.

NOTICE OF DECISION

10. For these reasons I am satisfied that the original Tribunal made no material error of law.

11. The appeal is dismissed.

ANONYMITY

12. No anonymity order was sought, nor is one required.

TO THE RESPONDENT

FEE AWARD

The appeal has been lost and therefore no fee award is appropriate.

Signed

Date 24 November 2017

Deputy Upper Tribunal Judge Davey