



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

Appeal Number: PA/00371/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 10th October 2018**

**Decision & Reasons
Promulgated
On 6th November 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

**S A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Plowright, Counsel instructed by City Legal Partnership

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Bangladesh, appealed to the First-tier Tribunal against a decision made by the Secretary of State on 20th December 2017. First-tier Tribunal Judge Andonian dismissed the appeal in a decision promulgated on 17th July 2018. The Appellant now appeals with permission granted by First-tier Tribunal Judge Landes on 15th August 2018.

2. There is essentially one ground of appeal and that ground contains that the First-tier Tribunal Judge made a number of material errors within the decision which undermine the decision as a whole.
3. At the hearing before me Mr Bramble accepted that there were a number of errors in the First-tier Tribunal Judge's decision.

Error of Law

4. One overall difficulty with the First-tier Tribunal Judge's decision in my view is that much of the decision appears to be a regurgitation of the reasons for refusal letter. In fact it is unclear where the recitation of the refusal letter ends and the judge's own analysis begins. It appears at paragraphs 6 to 27 is a summary of the reasons for refusal letter. Although it appears at times that the judge added his own views within those paragraphs, neither representative was able definitively to point to expressions of the judge's own views or analysis within these paragraphs.
5. The judge went on to set out the Appellant's evidence at paragraphs 28 to 29 and the evidence of the Appellant's witness at paragraph 30. It appears that the judge's own analysis is at paragraphs 32 onwards.
6. However, there is a mistake of fact at paragraph 34 where the judge said "There was no evidence before me that the letter from [the witness] reflected a temporary address (of the BNP in the UK) and that they were moving to a permanent address." However, the judge heard oral evidence on exactly this matter as recorded at paragraph 30. It may be that the judge did not accept this evidence, but he failed to undertake any analysis of this oral evidence in considering this issue. It is not enough just to say there was no evidence before him when there had been oral evidence on this matter which has not been analysed.
7. As accepted by Mr Bramble there is a further mistake at paragraph 37 where the judge appears to have mistakenly misinterpreted the Appellant's evidence as having been that he was at college when the court case against him was heard, whereas it is not in dispute that it was the Appellant's evidence that he was at college at the time when the attempted murder which the Appellant claims he was accused of was committed (question 140 to 142 in the asylum interview).
8. In my view these matters amount to material errors of law. The two mistakes of fact were mistakes in regard to issues which are at the heart of the Appellant's claim and are matters which are capable of affecting the overall credibility conclusions.
9. The structure of the decision itself is something which has led to significant confusion in reading the decision. Where there is such confusion as in this case then it is difficult for the Appellant to know the reasons for the dismissal of his appeal. Accordingly, I consider that the inadequacy of reasons along with the mistakes of fact are such that they

go to the heart of the decision and undermine the decision to such an extent that I must set it aside.

10. It was agreed between the parties that as a result of these errors the nature or extent of any judicial fact-finding which is necessary in order to remake the decision in the appeal is such that, having regard to the overriding objective in Rule 2, it is appropriate to remit the case to the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal Judge contains a material error of law. I set it aside.

I remit the appeal to the First-tier Tribunal at Taylor House to be heard by any First-tier Tribunal Judge other than Judge Andonian.

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 his 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: 2nd November 2018

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT FEE AWARD

No fee is paid or payable therefore there is no fee award.

Signed

Date: 2nd November 2018

Deputy Upper Tribunal Judge Grimes