



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00890/2017

THE IMMIGRATION ACTS

Heard at Manchester
On 19 April 2018

Decision & Reasons Promulgated
On 22 May 2018

Before

UPPER TRIBUNAL JUDGE CHALKLEY

Between

MR DARBAZ SALIL HAMADAMEEN
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Wood, Solicitor instructed by IAS (Manchester)
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

ANONYMITY DIRECTION DISCHARGED

The First-tier Tribunal Judge made an anonymity direction. I discharge that, having heard from the appellant's solicitor who tells me that he cannot think of a good reason why anonymity should be maintained.

REASONS FOR FINDING AN ERROR OF LAW.

1. The appellant is an adult male and a national of Iraq. He was born on 25th September 1991. He claims to have left Iraq on 1st July 2016 and travelled to Turkey. Then with the help of an agent he travelled to the United Kingdom by car, lorry and train, arriving, he claimed, on 3rd August 2016. On that day he was arrested by Metropolitan Police and served with IS 96 ENF. He claimed that he had entered the

United Kingdom from France, hidden inside a lorry clandestinely. He claimed asylum on 3rd August 2016. The appellant's claim for asylum was refused by the Secretary of State in a decision dated 13th January 2017 for reasons set out in an annex which accompanied that letter. He claimed that he would be persecuted in Iraq because of an allegation of an illegal relationship and because of his imputed political opinion.

2. The appellant appealed the Secretary of State's decision and his appeal was heard by First-tier Tribunal Judge Malik, in Manchester, on 19th June 2016. Judge Malik heard oral evidence from the appellant during the course of which he referred to somebody called WR. During the course of his cross-examination it was put to him that his wife would be asked to describe what WR looked like. The appellant gave a description. The appellant's wife then gave oral evidence, having previously made a statement. She was cross-examined and amongst other things she was asked what WR looked like. She gave a description as well. The judge went on to make findings and found the appellant not to be credible. However, in doing so, he made no findings at all in respect of the oral evidence he heard from the appellant's wife and in particular had not made any or reached any conclusions on whether or not she was credible, bearing in mind her description of WR. As a result, I believe the appellant was being denied a fair hearing.
3. The second challenge also suggests that the judge erred by failing to properly apply and consider *AA (Article 15(c)) Iraq CG [2015] UKUT 544*, however, given that the appellant has been denied a fair hearing, I concluded that the interests of justice require that the matter be remitted to the First-tier Tribunal for hearing afresh by a judge other than First-tier Tribunal Judge Malik. No findings of fact are to be preserved. A Kurdish Sorani interpreter will be required and it is respectfully suggested that three hours should be allowed for the hearing of the appeal.

Richard Chalkley

Upper Tribunal Judge Chalkley

Date: 17 May 2018