



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

Appeal Number: PA/01372/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 6 February 2018**

**Decision and
Promulgated
On 15 March 2018**

Reasons

Before

UPPER TRIBUNAL JUDGE CONWAY

Between

**MR IMAM UDDIN RABBY
(NO ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr Nath

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh born in 1994. He appealed against a decision of the respondent made on 27 January 2017 to refuse his claim for asylum.
2. The basis of his claim was that he had been an active member of the student wing of the Bangladesh National Party and that were he returned he would be at risk from the Awami League.

3. The respondent did not believe his account.
4. He appealed.

First tier hearing

5. Following a hearing at Taylor House on 24 July 2017, Judge of the First-Tier Herbert OBE dismissed the appeal on asylum grounds.
6. For the reasons he gave at paragraphs 29 to 40 of his decision he did not find the account credible on any material matter and concluded that he would not be at risk of persecution or serious harm were he to be returned. He concluded, further, that the appellant's '*prior motivation is to prolong his stay in the United Kingdom when it is clear that his original student leave had been curtailed*'.
7. As well as dismissing the appeal on refugee and Articles 2 and 3 (ECHR) grounds the judge also dismissed it under Article 8.

Error of law hearing

8. He sought permission to appeal.
9. The challenges to the decision on asylum and Articles 2 and 3 grounds were found to be without merit. However, the judge in granting permission stated:

"3. ... However, it is apparent from the decision the Judge did not consider Article 8 and that this is an arguable error of law."
10. The matter came before me at the error of law hearing on 21 December 2017. On that date the appellant was represented by Mr Khan of Counsel and the respondent by Mr Wilding.
11. Mr Wilding accepted that there had been no consideration of Article 8 but submitted that it was not a material error. In light of his history, personal circumstances, and scant information on Article 8 the claim could not succeed.
12. I agreed, however, with Mr Khan that the complete failure to consider Article 8 amounted to a material error and set aside the decision but only to the extent that the appeal in respect of Article 8 be reheard. As indicated, the decision of the First tier tribunal dismissing the appeal on asylum grounds stands.
13. I indicated that I considered it appropriate that the case proceed immediately to rehearing.
14. Mr Khan sought an adjournment for time to prepare. I refused, considering that the Directions issued on 23 November 2017 gave clear notice (at [4]) that in the event of the decision being set aside there was a presumption that the remaking of the decision would take place at the

same hearing. I noted that his client was present, that the issues were uncomplicated and that there had been adequate time to ensure the preparation of the case.

15. I, nonetheless, offered to put back the case to later in the day to allow Mr Khan time with the appellant. He declined.
16. Mr Khan said he wished to lead evidence from the appellant which I permitted.
17. It quickly became apparent that the appellant was difficult to understand. Mr Khan said he needed an interpreter. There had been no request for an interpreter in advance.
18. Efforts were made to see if one could be got that afternoon. It was not possible.
19. In the circumstance I found no option but to adjourn the hearing.

Resumed hearing

20. When the case resumed on 6 February 2018 the appellant appeared unrepresented although he stated his solicitors were still on record. No bundle had been lodged by him or on his behalf.
21. I invited him to say anything he wished about his time in the UK and why he did not think it appropriate he should be returned to Bangladesh.
22. I declined to hear his claim that he would be at risk because of his political views, reminding him that his asylum appeal was closed.
23. He said his student visa had been curtailed because he had not been doing any study. He continued to stay with an aunt and uncle who support him. He does voluntary work in a charity shop.
24. Asked about his circumstances in Bangladesh he said his mother, father, and a sister are there, but not in Dhaka, they live in a relative's house.
25. He said he would not be able to get work, there are no jobs. He said he was depressed but is not on medication.
26. There were no other witnesses.
27. In brief submissions Mr Nath said that the case came nowhere near to satisfying Article 8. There was no reason why as a fit and healthy man he could not get work in Bangladesh. His family would support him if necessary.
28. The appellant had nothing further to add.

Consideration

29. There is no issue of family life in this case. The appellant does not claim to have a wife, partner or children.
30. In considering this matter the starting point for consideration of Article 8 is paragraph 276ADE 'Requirements to be met by an applicant for leave to remain on the grounds of private life'.
31. Paragraph 276ADE(1) states the requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:
 ' ...
 (vi) *is aged 18 years or above, has lived continuously in the UK for less than 20 years, ... but there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK.*'
32. The evidence in this case about the appellant's private life is sparse.
33. The appellant has been in the UK a relatively short time, some five years. He arrived on a student visa in 2013 valid until 2016, he stopped studying resulting in his leave being curtailed in 2014.
34. His activities since then, according to his oral evidence, amount to nothing more than living with an aunt and uncle who support him and doing some voluntary work in a charity shop. On these matters there was no supporting evidence, evidence which one would have thought would have been easily available and I am not inclined to believe it. I note that no relatives or any other witnesses attended to give evidence nor were there any statements.
35. Comments in the original grounds of appeal that he has acquainted himself with the British way of life and '*managed to establish a decent life here*' add nothing. Nor does a claim in his witness statement (17.7.17) that he has '*embraced the culture, social life and the democratic value of this country*'. A claim that he has '*engaged with various community activities*' and attended regularly '*at the Cultural Centres*' and that '*as an active part of the community (he has) a strong bond with the various societies in the UK*' are similarly vague and unsupported by easily available evidence. There is simply no evidence, apart from his assertion, of ties or connections that he has built up in the UK. Again, I do not believe it.
36. On the very limited evidence I find that the appellant has not shown that he has established a private life here sufficient to engage Article 8 (1).
37. However, if I am wrong in that finding and his removal would be an interference with the exercise of his right to respect for his private life and to have consequences of such gravity as potentially to engage Article 8, such interference is in accordance with the law and is for a legitimate aim, and thus the question of proportionality needs to be considered.

38. I agree with Mr Nath that the appellant does not come close to showing that he would face very significant obstacles if returned to Bangladesh. He has been found not to have been truthful about his claim to be at risk for his political views. He would be returning as a young man to the country where he has spent the vast majority of his life. There are no language difficulties. There are no medical problems. There is no reason why he would not be able to get work to support himself. He has close family there who would no doubt be able to accommodate him and give support as necessary.
39. He cannot succeed under paragraph 276ADE (1) (vi).
40. Under section 117B of the Nationality, Immigration and Asylum Act 2002 I give little weight to any private life established when his immigration status was precarious and when it was illegal. He is not able to speak English (section 117B (2)) and is not financially independent (section 117B (3)).
41. I see no exceptional circumstances, that is to say, circumstances in which refusal would result in unjustifiably harsh consequences for the appellant such that refusal would not be proportionate. The appeal cannot succeed under Article 8 outside the rules.
42. In summary, having considered the balancing exercise and giving due weight to the public interest in removal I find that the Article 8 claim is nowhere near sufficiently strong to outweigh it.
43. The Article 8 appeal fails.

Notice of Decision

The decision of the First-Tier Tribunal in respect of Article 8 ECHR shows material error of law.

That decision is set aside and remade as follows:-

The appeal is dismissed on human rights grounds (Article 8).

The decision dismissing the appeal on asylum grounds stands.

No anonymity order made.

Signed

Dated: 12 March 2018

Upper Tribunal Judge Conway