



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

Appeal Number: PA/01829/2018

THE IMMIGRATION ACTS

Heard at Field House

On 28 November 2018

**Decision & Reasons
Promulgated**

On 07 March 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

**MOHAMMAD ABU BAKOR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Sharma of Counsel instructed by Reymond Solicitors

For the Respondent: Ms A Everett, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Chowdhury promulgated on 19 April 2018 in which she dismissed the Appellant's appeal against a decision of the Respondent dated 24 January 2018, refusing asylum in the United Kingdom. The appeal was dismissed on protection and human rights grounds.

2. The Appellant is a citizen of Bangladesh born on 22 August 1991. He has previously visited the United Kingdom pursuant to entry clearance as a visitor. He made trips to the United Kingdom in the latter half of 2011, during 2012, during the latter half of 2013, and also during the latter half of 2014. He was last granted entry clearance as a visitor on 9 June 2015 valid until 9 December 2015. He last entered the UK pursuant to such entry clearance on 7 August 2015; however he overstayed his period of leave. On 2 May 2017 he was encountered and served with immigration papers as an overstayer. On 3 May 2017 the Appellant claimed asylum.
3. In his application for asylum the Appellant claimed that he was involved in politics in Bangladesh. He said that he was a member of the student wing of the Jamaat-e-Islami and that he had been attacked by political opponents in consequence. He also claimed that First Information Reports ('FIRs') had been filed against him for incidents in April 2012 and March 2013 on false grounds. He claimed that he was appointed area president of the Islami Chhatra Shibir, the student wing of the Jamaat-e-Islami, in January 2015, and in April 2015 he was attacked and stabbed by members of the government party. He expressed a fear on return from the police, the government and political opponents.
4. The Appellant's application for asylum was refused for reasons set out in a 'reasons for refusal' letter ('RFRL') dated 24 January 2018.
5. The Appellant appealed to the Immigration and Asylum Chamber.
6. The appeal was refused for reasons set out in the 'Decision and Reasons' of the First-tier Tribunal Judge promulgated on 19 April 2018.
7. The Appellant sought permission to appeal to the Upper Tribunal. This was refused in the first instance by First-tier Tribunal Judge Pickup on 21 May 2018, but subsequently granted by Upper Tribunal Judge Gleeson on 23 October 2018.
8. The Appellant raises five grounds of challenge in his grounds in support of the application for permission to appeal. Mr Sharma in his submissions before me took me through those grounds in relatively brief terms making observations on each of them. In short, Mr Sharma did not seek to develop in detail any of the grounds and in fact expressly indicated that he did not seek to rely upon some of the grounds. He accordingly did not advance any further or more detailed articulations of the Appellant's case than those contained in the grounds. Nonetheless, he indicated that he did not expressly concede the appeal.

9. The first ground of challenge makes for difficult reading. The second paragraph of it is incomplete: it commences *"It is submitted if the F-tJ has directed it mind correctly to the facts it would have found these:"*. Nothing further is written.
10. In any event, the remainder of the first ground is plainly without substance. Criticism is directed at the Judge's observation at paragraph 58 that it was *"wholly unbelievable"* that if the Appellant's activities were as claimed he was unable to identify the current leader of the party during his interview with the Respondent. The Judge rejected the Appellant's explanation for this inability. The ground of challenge pleads that the Judge's reasoning *"doesn't make sense"*. Mr Sharma expressly indicated that he did not place any reliance on this ground. He was right so to do.

11. In the premises I note the following:

(i) At question 28 of the asylum interview the Appellant was asked, further to questions as to the date of founding of 'Chattra Shibbir' (question 26), and the name of the founder (question 27), *"Who is their current leader?"*, To which he responded *"I can't remember exactly"*.

(ii) The Appellant's apparent lack of knowledge in this regard was raised as an adverse factor in the RFRL at paragraph 30: *"You could not identify the current leader of the party (AIRQ28) which is deemed inconsistent with somebody who claims to have been a member of the party since 2011"*.

(iii) At paragraph 30 of the Decision the Judge noted the Appellant's comments on this inability in these terms.

"[The Home Office Presenting Officer] ... asked the Appellant why he could not remember the leader of the student wing. The Appellant stated that he did not know whether he was asked who was the leader of the student wing or the Jamaat Party. He did not ask for clarification. He decided to ignore the question but he knew the leaders of each."

(iv) This answer under cross-examination finds its way into the Judge's findings and conclusions at paragraph 58 in these terms:

"I find it wholly unbelievable that the Appellant who claims to have been a member of the student wing of the Jamaat-e-Islami could not identify the current leader of the party during his substantive interview with the Respondent. I reject his evidence before me"

that he was confused about the question and chose to ignore it instead”.

12. It seems to me that the Judge was fully entitled to reject the Appellant’s explanation. The Appellant’s answer at question 28 does not ignore the question, and does not demonstrate any confusion as to the question.
13. Moreover, the rejection of the Appellant’s attempt subsequently to explain the apparent lack of knowledge seemingly demonstrated by his answer at interview must be seen in the context of the overall evaluation of the Appellant’s credibility - which is adverse at almost every turn. Indeed, it is to be noted that the Appellant’s performance under cross-examination was so poor that at the end of cross-examination his own representative sought a brief adjournment to take instructions as to whether the appeal should be withdrawn: see paragraph 46.
14. Ground 2 of the challenge before the Upper Tribunal is again one upon which Mr Sharma did not seek to place any particular reliance. The ground alleges that the First-tier Tribunal Judge failed to engage with the Appellant’s “*innocent explanation*” for failing to claim asylum at an earlier point. In this regard, the Appellant’s explanation amounted to little more than that he had always intended to return to Bangladesh. Manifestly that does not offer any sort of explanation for failing to seek to regularise his immigration status once he became an overstayer.
15. In any event it is plain that the Judge gives adequate consideration to such matters at paragraph 21 and 67, concluding that the Appellant’s credibility is “*also*” damaged on ‘section 8 grounds’. Moreover, it is also clear that the Judge had already reached a significant adverse assessment of the Appellant’s credibility even without the further consideration of section 8 at paragraph 67. I can see nothing material in the section 8 issue that could add positivity to the otherwise lamentable presentation of the Appellant’s oral testimony before the First-tier Tribunal.
16. Ground 3, which alleges that the Judge failed to make an independent assessment of Article 3, is - as Mr Sharma acknowledged - entirely contingent upon the Appellant being able to make good the factual premises of his claim. As such it is not a ground that had any ‘independent life’. In the circumstances, and bearing in mind what is said elsewhere herein, it is unnecessary to address this ground further: it has no merit.
17. Mr Sharma did not seek to develop either ground 4 or ground 5, but did not expressly abandon them.

18. Ground 4 is a challenge to the Judge's observation at paragraph 65 that the Appellant appeared to be "*disinterested*" in his own appeal.

19. Paragraph 65 is in these terms:

"This appellant has shown a complete disinterest in his own appeal. He is incompetent in presenting his claim because I find it is not true. Before me he claimed to be in touch with party activists in Bangladesh but did not even know who wrote him a letter of support from his local party... or who was even the current president of the local branch. His lack of knowledge of his own party demonstrated at his substantive interview with the respondent showed how little he knew the political party he claims to be an adherent of."

20. It may be that the word "*disinterest*" is not the appropriate word. However, what is clear in context is that the Judge was observing that the Appellant seemed significantly unfamiliar with the contents of the supporting evidence that had been submitted on his behalf, and did not display any sort of up-to-date knowledge of the political scene that was the milieu of his claim. In my judgement it was open to the Judge to conclude that such 'incompetence of presentation' arose because the claim was made up.

21. Indeed the Judge's evaluation of the Appellant's claim makes it clear that the Judge considered that the Appellant had little actual knowledge of the matters being advanced on his behalf - notwithstanding that if there was any truth to his claim he would have had ready access to yet more documentation and corroborative documentation via a lawyer based in Bangladesh who it was claimed was handling the Appellant's situations through the instruction of the Appellant's father: e.g. see paragraphs 62, 63, and 64.

22. In all the circumstances, I can see no substance to the fourth ground of challenge.

23. The fifth ground of challenge is general in nature and alleges that the Judge failed to approach the Appellant's case through the appropriate perspective, relied unduly on an inability of recall, and did not make an explicit finding that the Appellant's case was "*not a coherent case*". It seems to me that this ground adds nothing at all that might identify an error of law on the part of the First-tier Tribunal, and Mr Sharma was wise

not to seek to develop it. It is no more than a further expression of the generalised dispute with the outcome of the appeal.

24. In short: the Appellant's credibility was significantly undermined during the course of both his interview, and more particularly his cross-examination before the First-tier Tribunal. The First-tier Tribunal Judge has set out with cogency and clarity reasons for not accepting the Appellant's narrative account of events. Those reasons are entirely sustainable and are not to be impugned on any of the bases alleged in the grounds of appeal. Once the factual premise of the Appellant's claim by reference to his narrative account had been rejected there was nothing left for him to pursue by way of his protection claim.

Notice of Decision

25. The decision of the First-tier Tribunal contained no error of law and therefore stands.
26. The Appellant appeal remains dismissed.
27. No anonymity direction is sought or made.

Signed:

Date: 4 March 2019

Deputy Upper Tribunal Judge I A Lewis