



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/03647/2019

THE IMMIGRATION ACTS

Heard at Field House
On 14 October 2019

Decision & Reasons Promulgated
17 October 2019

Before

UPPER TRIBUNAL JUDGE REEDS

Between

AH
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P. Anderson of Counsel

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

DECISION AND REASONS

1. The Appellant appeals against the decision of First-tier Tribunal promulgated on the 10th June 2019, in which the Appellant's appeal against the decision to refuse his protection and human rights claim dated 29 March 2019 was dismissed.
2. Permission to appeal was granted on a number of grounds all of which were relevant to the credibility findings made by the FtTJ and were set out with particularisation in the grant of permission.

3. At the oral hearing, after hearing submissions on behalf of the Appellant, Ms Everett appropriately conceded that there was a material error of law as set out in the grounds when read with the grant of permission. For the same reasons, I find a material error of law such that the decision of the First-tier Tribunal must be set aside, and the hearing remitted for de novo consideration of the appeal.
4. I therefore set aside the decision of the judge in its entirety. I have taken into account paragraph 7.2 of the practice statements for the Immigration and Asylum Cis of the First-tier Tribunal and the Upper Tribunal which recognises that it may not be possible for the Upper Tribunal shall proceed to remake the decision when it is satisfied that (a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunities that party's case to be put to and considered by the First-tier Tribunal; or (b) the nature or extent of any judicial fact-finding which is necessary in order for the decision in the appeal to be remade is such that, having regard to the overriding objective 2, it is appropriate to remit the case of the First-tier Tribunal.
5. Having exercised my discretion and by considering the practice statement, the case falls under (b) given that the court will now be required to assess the case afresh and make findings of fact on all the evidence. I am satisfied that the appropriate course is to remit the case to the First-tier Tribunal for a fresh hearing.
6. The parties consented to a decision without reasons pursuant to Rule 40(3)(b) of the Tribunal Procedure (Upper Tribunal) Rules 2008 and therefore no further reasons are given in writing for this decision.

Notice of Decision

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal; no findings of fact are preserved.

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. 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: 14/10/2019

Upper Tribunal Judge Reeds