



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

Appeal Number: PA/10855/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 4<sup>th</sup> April 2019**

**Decision & Reasons  
Promulgated  
On 15<sup>th</sup> April 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE D N HARRIS**

**Between**

**MR JOYNAL ABEDIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Khan, Solicitor

For the Respondent: Miss Holmes, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Bangladesh born on 25<sup>th</sup> December 1979. The Appellant had applied for asylum in the United Kingdom and asked to be recognised as a refugee. He claimed to have been a supporter of the Bangladesh National Party since the year 2000 and claimed that on return

to Bangladesh he would be unjustly imprisoned for life as a result of false allegations which had been filed against him. He also feared that he would be killed by members of the Awami League as a result of his political affiliation. His application was refused by Notice of Refusal dated 29<sup>th</sup> August 2018.

2. The Appellant appealed and the appeal came before Judge of the First-tier Tribunal Abebrese sitting at Taylor House on 9<sup>th</sup> October 2018. In a Decision and Reasons promulgated on 26<sup>th</sup> November 2018 the Appellant's appeal was dismissed on all grounds.
3. The Appellant lodged Grounds of Appeal to the Upper Tribunal on 4<sup>th</sup> December 2018.
4. On 1<sup>st</sup> March 2019 First-tier Tribunal Judge Ford granted permission to appeal. Judge Ford noted that it was argued that the Tribunal had erred in:-

“giving ‘no consideration on the Appellant’s Article 8 rights and private life and asylum claim’ and in particular

- a. failed to consider the FIR
- b. jumped to the conclusion that the Appellant had provided false documents and fabricated evidence without there being any evidence of this from the Respondent
- c. breached rules of fairness and natural justice”.

It is relevant to consider the findings made thereafter by Judge Ford. He noted that the Grounds were very badly drafted, vague and “just about arguable”. Having read the decision however he could see no detailed consideration of the copious documents submitted by the Appellant including the FIR, court judgments and warrant of arrest, apart from the limited consideration at paragraph 20 of the decision. In the absence of such consideration he considered it was arguable that the Tribunal may have erred in making adverse credibility findings based on internal inconsistencies in limited aspects of the Appellant's evidence. He consequently concluded that there was an arguable material error of law.

5. No Rule 24 response has been served and filed by the Secretary of State. It is on that basis that the appeal comes before me to determine whether or not there is a material error of law in the decision of the First-tier Tribunal Judge. The Appellant appears by his instructed solicitor Mr Khan. The Secretary of State appears by her Home Office Presenting Officer Miss Holmes.

### **Submissions/Discussions**

6. Mr Khan relies on three grounds. He takes me firstly to the judge's reasonings at paragraphs 19 to 23 of his decision. He emphasises therein

where reference is made to concerns about the Appellant's credibility, particularly with regard to the contention that the Appellant had two jobs, that the judge was wrong in his assessment in that the Appellant did have two jobs. He set up in business but at the same time when his business was not working out he went back to his job as a driver and that this has been addressed fully at question 46 of his asylum interview. He states that the Appellant's evidence therein was consistent and that there was nothing impossible about the way the Appellant conducted his business affairs. He notes and contends therefore that paragraph 19 of the First-tier Tribunal Judge's decision does not in his view stand up to anxious scrutiny. He also considers that there is a breach of fairness in the manner in which the judge reached his finding.

7. Secondly, he contends that the judge failed to consider highly material evidence. He submits that the only consideration made of documents is to be found at paragraph 21 of the decision and that the judge has misunderstood the Appellant's case with regard to the charges that were brought against him and he cross-referenced and refers back to question 142 of the Appellant's asylum interview which he submits is consistent with the documentary evidence that is produced in the Appellant's bundle. He further refers me to an extract which I have considered from the Respondent's bundle and takes me back to paragraph 4 of the Appellant's witness statement submitting that if he had considered all the documents the Appellant's evidence would have been found to be consistent. He submits that the case does not stand up to anxious scrutiny. Further, he submits that where the judge has made a finding of provision of false documents that this was never put to the Appellant and that the conclusion in paragraph 23 is made without foundation.
8. Finally Mr Khan challenges the finding on Article 8 at paragraph 25. He does however acknowledge that if evidence relating to Article 8 had not been before the judge, it does become more difficult to pursue this particular aspect of the appeal.
9. In response Miss Holmes submits that the findings were open to the judge. So far as the reference to the two jobs is concerned (to be found at paragraph 19), she contends that relying on this to any extent is effectively "a red herring" and that the main point was that the judge had real doubts about the lateness in which evidence was provided and similarly, at paragraph 20, that the judge considered confusing evidence had been provided by the Appellant. She points out that the judge had found and made findings at paragraph 22 that the evidence was not consistent and that there had been dishonesty with regard to the production of photographs. She asked me to find that the judge's reasons are well-made and sustainable and that the arguments put forward by the Appellant's legal representatives amount to little more than disagreement.

## **The Law**

10. Areas of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on fact or evaluation or to give legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
11. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for an Immigration Judge to fail to deal with every factual issue of argument. Disagreement with an Immigration Judge's factual conclusion, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence of events arising after his decision or for him to have taken no account of evidence which was not before him. Rationality is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration Judge concludes that the story is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

## Findings

12. This is a judge who has made substantial and adverse credibility findings. The judge's approach to credibility is such that he finds that the Appellant is not credible regarding the core of his claim. A proper approach to credibility requires an assessment of the claim and the evidence. Relevant factors include the internal consistency, inherent plausibility and external factors of the sort typically found in country guidance. The judge has noted that the Appellant was vague with regard to his evidence and that at paragraph 20 has given confusing evidence. He further has made findings that the Appellant was not credible regarding the charges he claims had been filed against him and maintained during the course of the hearing that it was only one charge, but then changed it two charges, and that his evidence was confused. Mr Khan had suggested to the First-tier Tribunal that the inconsistency was due to lack of education, but that was refuted.
13. I agree with the submissions made by Miss Holmes that the findings were open to the judge. I do not consider that the judge has misinterpreted in any manner the fact that the Appellant held two jobs, and whilst the explanation given by Mr Khan is a perfectly reasonable one, the whole of the findings set out between paragraphs 19 and 23 have to be looked at as a whole. This is a judge who has given very thorough consideration to the evidence and has made adverse findings on credibility. Those were conclusions based on the evidence that he heard that he was entitled to make, and despite the efforts of Mr Khan I find that the judge has given

full consideration to the evidence that was before him and that the judge was entitled to make the findings he did with regard to the documents. Judge Abebrese heard the case and considered all the evidence that was before him. In such circumstances I find that there is no material error of law disclosed and the submissions made by Mr Khan amount to little more than disagreement with the findings made by the judge.

14. So far as the issue relating to Article 8 is concerned, it is completely inadequate merely to rely on the fact that the judge did not consider the issues, bearing in mind that the Appellant did not raise any issues, nor provide any evidence. The judge's approach is perfectly correct and satisfactory. For all the above reasons the decision discloses no material error of law and the Appellant's appeal is dismissed and the decision of the First-tier Tribunal Judge is maintained.

### **Notice of Decision**

15. The decision of the First-tier Tribunal Judge discloses no material error of law and the appeal is dismissed and the decision of the First-tier Tribunal Judge is maintained.

16. No anonymity direction is made.

Signed

Date: 11<sup>th</sup> April 2019

Deputy Upper Tribunal Judge D N Harris

### **TO THE RESPONDENT FEE AWARD**

No application is made for a fee award and none is made.

Signed

Date: 11<sup>th</sup> April 2019

Deputy Upper Tribunal Judge D N Harris