



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/12729/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 15 May 2019**

**Decision & Reasons Promulgated  
On 22 May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHANA**

**Between**

**MUHAMMED KOMOR UDDIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J Shah, Solicitor  
For the Respondent: Miss A Everett, Senior presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Bangladesh who appealed against the respondent's decision dated 22 October 2018 to refuse to grant him asylum and humanitarian protection in the United Kingdom. The judge did not consider the appellant's rights under Article 8 of the European Convention on Human Rights as he was of the view that article 8 was not raised. He stated at paragraph 42 of his decision that there was no Article 8 or private or family life claims pursued "before me".
2. Permission to appeal was granted by First-tier Tribunal Judge Robertson in a decision dated 4 April 2019 stating that there is no merit in respect of

the asylum and humanitarian protection appeal but it is of arguable merit that the Article 8 grounds were not considered by the judge and the grounds of appeal clearly reference that Article 8 is raised.

3. At the hearing it was by consent that the parties agreed that the judge fell into material error by not considering Article 8 when it was clear that Article 8 had been raised on the grounds of appeal. I find that the judge's failure to consider Article 8 was a material error.
4. Therefore I set aside the decision of the First-tier Tribunal for his failure to consider whether the United Kingdom is breach of the appellant's rights in respect of the Article 8 and that is the only ground in respect of the renewed hearing.
5. I however preserve the First-tier Tribunal's decision in respect of the appellant's claim for asylum and humanitarian protection as permission was not been granted and there is no material error of law in the decision relating to those claims.

### **Notice of Decision**

6. The appeal be remitted to the First-tier Tribunal to be heard in respect of the appellant and the children's rights under Article 8 of the European Convention on Human Rights only.
7. The appeal be set before any First-tier Tribunal Judge other than Judge Davey.
8. Anonymity direction not made.

Signed

Date 21<sup>th</sup> day of May 2019

Deputy Upper Tribunal Judge Chana