



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

Appeal Number: PA/03221/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
Via Skype for Business
On 7 October 2020**

Decision & Reasons Promulgated

On 11 November 2020

Before

UPPER TRIBUNAL JUDGE LANE

Between

**MD MOSTAFA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Spurling

For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, who was born on 1 July 1986, is a male citizen of Bangladesh. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 23 March 2019 refusing his application for international protection. The First-tier Tribunal, in a decision promulgated on 10 October 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are five grounds of appeal. The appellant claims to be a member of the political party, the BNP (the Bangladesh National Party). The judge found the appellant was unable to provide detailed evidence as to the policies of the BNP and that his failure to provide this evidence undermined his claim to be an active member of the party. The appellant complains that the judge failed to make findings in respect of the appellant's claims that, at the interview with the Secretary of State's officers, he had sought to provide information regarding the BNP but the interviewer had 'moved on'. Further, the judge accepted that the appellant had attended BNP rallies; it was therefore otiose to find that the appellant had been unable to provide further information regarding BNP given the Tribunal's acceptance of his attendance at rallies in both in Bangladesh and in the United Kingdom. Moreover, the judge had failed to take into account the fact the appellant suffers from depression that this may have affected his ability to give clear evidence. Finally, under this ground the appellant claims that he had provided evidence of the reasons for his delay in claiming asylum but that the judge had ignored the explanation [64].
3. In his oral submissions at the remote hearing on 7 October 2020, Mr Spurling, who appeared for the appellant, sought to make a general comment in respect of ground 1, namely that the complaints raised by the appellant arose from the failure of the judge to give a narrative of the First-tier Tribunal hearing in the decision and reasons. It was, therefore, difficult to know what parts of the appellant's evidence the judge had taken into account and whether he had ignored other parts of that evidence.
4. I find that Ground 1 is without merit. I agree entirely with Mr Tan, who appeared for the Secretary of State, that the grounds amount to criticism of the style rather than the substance of the judge's decision. As regards the appellant's depression, I note that no application was made before the First-tier Tribunal by the appellant's representative for his client to be treated as a vulnerable witness. There was a medical report before the judge from January 2019 but this appeared to link the appellant's depression specifically to the fact that he was at that time in immigration detention; there was no fresh evidence following his release from immigration detention which might have led the judge to conclude of his own motion that the appellant should be treated as a vulnerable witness. Secondly, whilst I acknowledge that the judge has not given a detailed narrative of the hearing, that failure is not in itself an arguable error of law. The judge indicated that he had considered the documents produced in evidence by both parties [26] and I have no reason to believe that he had not considered the appellant's witness statement which provides some explanation of the delay in claiming asylum. I am satisfied the judge has considered and rejected that explanation in the context of all the evidence before him. I am also satisfied that the judge was fully entitled on the basis of the evidence to identify the failure of the appellant to give details about the policies of the BNP and his involvement with the party as a reason for rejecting the appellant's claimed level of involvement. It is

also significant that the appellant made no complaint at all at or immediately following the asylum interview that he had been prevented from giving evidence about the BNP.

5. Ground 2 complains of the alleged failure by the judge to make adequate findings on various documents produced by the appellant in evidence. These include a letter from the appellant's advocate in Bangladesh; an affidavit from the appellant's mother; court/prosecution related documents. The judge did make a finding that arrest warrants could not have been obtained by the appellant or by his legal representatives. In respect of that finding, the appellant complains that it is irrational as the legal representative would and should have been able to have obtained all relevant documents concerning the prosecution of his client.
6. I reject this ground appeal also. I am satisfied the judge has, as he indicated he would at [22], considered the documentary evidence in the context all the evidence and subject to the principle set out in *Ahmed* [2002] UKIAT 00439. Further, at [42], the judge has noted the statement provided by the appellant's mother recording that this evidence reiterates some of the claims made by the appellant', claims which the judge has given entirely cogent clear reasons for rejecting. As regards the letter from the Bangladeshi advocate, the judge has explained in detail [43] why he had significant doubts as to its probative value. The fact that several letters in support of the appellant's claim have been written using exactly the same wording fully entitled the judge to attach little weight to such evidence. Furthermore, at [39], judge has examined in detail the failure of the appellant to have made reference earlier in his evidence to having appeared in court and released on bail, significant elements of the appellant's narrative which appear to have been added to his account only very late in the proceedings. I am also entirely satisfied that the judge has given sustainable reasons for rejecting the appellant's claims in respect of the arrest warrant. [40-41] and that the appellant's grounds amount to nothing more than disagreement with those Tribunal's findings.
7. Ground 3 concerns the judge's acceptance that the appellant may have attended rallies and suffered injury [54] [67] but still rejected the appellant's claimed level of involvement in the BNP. Ground 3 suggests that this latter finding amounts to perversity but I disagree. The judge makes no firm finding that the appellant did attend such rallies but, whether or not he did do so, the judge has provided entirely cogent reasons for finding that the appellant is not at risk because he has no identifiable profile with the BNP. Attendance at a rally does not necessarily mean that the appellant was involved in the BNP to the extent that he claimed or that, by merely attending a rally, he might be exposed to a real risk on return to Bangladesh.
8. Ground 4 complains at the judge failed to give adequate consideration to the appellant's claimed attendance at rallies in the United Kingdom. I refer to the preceding paragraphs of my decision; whether or not the appellant

has attended rallies, the judge's finding that he is not involved with the BNP at the level he claims is unimpeachable.

9. Ground 5 raises the question of the appellant's employment history. The judge had noted that the appellant had been arrested was working illegally at a restaurant in the United Kingdom. The judge went on to find, in determining the Article 8 appeal, that the appellant had not 'indicated any employment or career of any significance'. The appellant's student leave had been curtailed on account of his illegal working but the appellant complains that the First-tier Tribunal failed to determine the issue, asserting that the Secretary of State had offered 'insufficient evidence'. This ground is entirely without merit. Indeed, Mr Spurling did not seek to advance it at the initial hearing. There was no evidence that the appellant had challenged the curtailment of his leave to remain.
10. For the reasons which I have stated above, I find that the judge has not erred in law for the reasons advanced by the appellant or at all. Moreover, even if I had found that the judge had fallen into error for the reasons stated in the grounds of appeal then, given that those grounds concern the judge's findings on the credibility of the appellant's account of past events, the judge's alternative finding at [73] that, 'even on the appellant's own version of events', he would be able to exercise the option of internal flight within Bangladesh has not been challenged at all even though that finding is plainly determinative of the appeal.

Notice of Decision

This appeal is dismissed.

Signed

Date 30 October 2020

Upper Tribunal Judge Lane