



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

**Appeal Number: PA/11964/2018**

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 10 January 2020**

**Decision & Reasons Promulgated  
On 29 January 2020**

**Before**

**UPPER TRIBUNAL JUDGE HEMINGWAY**

**Between**

**N  
(ANONYMITY DIRECTED)**

**Appellant**

**and**

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

**Respondent**

**Representation:**

For the Appellant: Mr V Jagadeshm (Counsel)

For the Respondent: Mrs R Pettersen (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is the claimant's appeal to the Upper Tribunal, brought with the permission of a Judge of the First-tier Tribunal, from a decision of the First-tier Tribunal (the tribunal) of 14 September 2018 to dismiss his appeal against the Secretary of State, made on 28 September 2018, refusing to grant international protection.

2. The tribunal granted the claimant anonymity. Nothing was said about that before me but, in the circumstances, I have decided to maintain the status quo.

3. Having had his appeal dismissed, the claimant, through his representatives, sought and obtained permission to appeal to the Upper Tribunal. The granting judge relevantly said this:

“2. The first ground makes several discrete challenges to the judge’s conclusions on the medical evidence. When considered in light of the judge’s self-direction at [79] – [80] it is arguable that at [107] the judge did impermissibly compartmentalise his credibility assessment contrary to the principle in Mibanga v SSHD [2005] INLR 377, and further arguable that the judge erred in failing to have regard to Y v SSHD [2009] EWCA Civ 362. That last argument additionally applies to Ground 3. Where does the judge have numerous other reasons for rejecting the appellant’s credibility, it cannot be said that his overall conclusion was inevitable”.

4. Permission having been granted, the case was listed for a hearing before the Upper Tribunal (before me) so that consideration could be given as to whether the tribunal had erred in law and, if so, what should flow from that. Representation at that hearing was as stated above and I am grateful to each representative.

5. In the event the hearing was short because Mrs Pettersen, on behalf of the Secretary of State, accepted that the tribunal had erred in the first way in which the granting judge had suggested it might have done. She invited me to set aside the tribunal’s decision on that basis and suggested that if I were to do that, the appropriate further course would be to remit for a re-hearing. Mr Jagadesham, unsurprisingly, had nothing further to add.

6. The tribunal’s written reasons demonstrate that it considered matters carefully and diligently. But Mrs Pettersen is a Senior Home Office Presenting Officer and she did not seek to oppose the appeal. In those circumstances and with the agreement of the parties I have decided to set aside the tribunal’s decision and to remit for a complete re-hearing as urged.

7. Since I am remitting I am statutorily obliged to give directions for the re-hearing. But I have given only brief directions as it seems to me that matters relating to, for example, the mechanics with respect to the listing of the appeal and the time to be allocated for it to be heard, will be best left to a Judge of the First-tier Tribunal.

## **DIRECTIONS FOR THE RE-HEARING**

A. The decision of the First-tier Tribunal which it made on 14 September 2018 has been set aside. I do not preserve any of the tribunal’s findings or conclusions.

B. Accordingly, there shall be a complete re-hearing of this appeal in the First-tier Tribunal. The re-hearing shall not involve the individual judge who decided the appeal on 14 September 2018.

C. These directions may be amended or supplemented by further directions given by any judge of the First-tier Tribunal in the Immigration and Asylum Chamber.

## **DECISION**

The decision of the First-tier Tribunal is set aside. The decision shall be remade by way of a complete re-hearing in the First-tier Tribunal.

## **ANONYMITY**

The First-tier Tribunal granted the claimant anonymity. I continue that grant pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Accordingly, no report of these proceedings shall identify the claimant or any member of his family. Failure to comply may lead to contempt of court proceedings.

Signed:

Dated: 22 January 2020

M R Hemingway  
Judge of the Upper Tribunal