



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/07683/2016 (A)**

THE IMMIGRATION ACTS

**Case Management Review by BT MeetMe
On 12th January 2021**

**Decision & Reasons
Promulgated
On 19 January 2021**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**S S
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Brown, instructed by Parker Rhodes Hickmotts
Solicitors

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

DIRECTIONS AND REASONS (A)

IT IS DIRECTED THAT:

- i) The directions of the Upper Tribunal that the appeal will be re-heard in the Upper Tribunal, are set aside.

- ii) The appeal is remitted to the First-tier Tribunal for re-hearing. The only finding preserved is the finding at paragraph [22] of the decision of First-tier Tribunal Judge Pooler that the Tribunal was not satisfied the appellant's father was involved in the Ba'ath party as claimed, or that this was the reason for his death.

- iii) The parties shall be notified of a hearing date before the First-tier Tribunal in due course. The Tribunal shall arrange a Kurdish Sorani interpreter.

REASONS

1. The appellant is a national of Iraq. He appealed the respondent's decision of 12th July 2016 to refuse his claim for asylum and humanitarian protection. His appeal was dismissed for reasons set out in the decision of First-tier Tribunal Judge Pooler promulgated on 7th March 2018. The appellant was granted permission to appeal and the decision of Judge Pooler was set aside by Deputy Upper Tribunal Judge Chamberlain for reasons set out in a decision promulgated on 13th August 2019. Judge Chamberlain directed that the decision is to be remade in the Upper Tribunal and that in view of the country guidance in force at the time, the sole issue to be decided was whether the appellant could internally relocate to the IKR. The appeal was listed for hearing before me on 20th February 2020 but had to be adjourned because neither party had addressed the issues that now arise in the appeal, following the subsequent country guidance set out in SMO & Others.

2. The hearing before me on 12th January 2021 had been listed as a face-to-face resumed hearing at which it was intended that the Upper Tribunal would remake the decision as previously directed. Notice of the hearing was sent to the parties on 15th December 2020. Unfortunately, because of further restrictions announced in January 2021 and the need to take precautions against the spread of Covid-19, the hearing could not

proceed as a face-to-face hearing and was instead listed as a Case Management Review hearing, using BT MeetMe.

3. Having had the opportunity of considering submissions helpfully made by the parties, I accept that the most appropriate course is for the appeal to be remitted to the First-tier Tribunal for hearing afresh, with only one finding preserved. That is, the finding at paragraph [22] of the decision of First-tier Tribunal Judge Pooler that the Tribunal was not satisfied the appellant's father was involved in the Ba'ath party as claimed, or that this was the reason for his death. That finding was preserved by Deputy Upper Tribunal Judge Chamberlain.
4. There has already been a lengthy delay in the disposal of the appeal, and I was again urged by the parties to consider remitting the appeal to the First-tier Tribunal because the remaking of the decision is to be almost entirely *de novo* and it is likely that the First-tier Tribunal will be able to accommodate a face-to-face listing of the appeal considerably sooner than might be possible in the Upper Tribunal.
5. It is in the interests of justice for there to be a timely disposal of the appeal. I am satisfied that the nature and extent of any judicial fact-finding necessary will be extensive, and following enquiries, I am satisfied that a rehearing of the appeal is likely to be accommodated in the First-tier Tribunal within weeks rather than months. Following the updated country guidance set out in SMO & Others and the unforeseen delays that have occurred because of the current pandemic, I am satisfied that there has been a change of circumstances since the decision of Deputy Upper Tribunal Judge Chamberlain such that the appropriate course is for the appeal to be remitted to the First-tier Tribunal for the decision to be remade. The parties will be advised of the date of the First-tier Tribunal hearing in due course.

Signed **V. Mandalia**

Date: 12th January 2021

Upper Tribunal Judge Mandalia