



IAC-AH-SC-V2

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

Appeal Numbers: PA/52254/2020
UI-2022-001561; IA/02057/2021

THE IMMIGRATION ACTS

**Heard at Field House
On the 31 August 2022**

**Decision & Reasons Promulgated
On the 10 October 2022**

Before

**UPPER TRIBUNAL JUDGE McWILLIAM
DEPUTY UPPER TRIBUNAL JUDGE METZER**

Between

**MAH
(Anonymity order made)**

Appellant

and

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

Respondent

Representation:

For the Appellant: Ms D Coleman of Counsel instructed by JKR solicitors
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Bangladesh. His date of birth is 10 December 1989.
2. In a decision of 21 July 2022 Upper Tribunal Judge Jackson granted permission to the Appellant to appeal against the decision of the First-tier Tribunal (First-tier Tribunal Judge Buckwell) promulgated on 21 April 2022 to dismiss the Appellant's appeal against the decision of the Respondent of 29 October 2020 to refuse his protection and human rights claims. The matter came before us to determine whether the First-tier Tribunal erred in law.

3. The Appellant came to the UK on 24 January 2014 as a student. On 9 July 2018 the Appellant made an application for protection. He claimed that he would be at risk on return to Bangladesh on the basis of his political beliefs. On 29 October 2020, the Appellant's application was rejected on all grounds. He appealed the decision on 11 November 2020.
4. The Appellant's appeal grounds claimed six errors of law including (at ground (ii), that the First-tier Tribunal rejected the claim of the attack on the Appellant's brother on the basis of evidence not submitted and made findings which were perverse on the evidence before the First-tier Tribunal. This ground concerned photographs of the injuries which the Appellant claimed were to his brother inflicted by a group connected with Akkaba Hossain, a Bangladeshi MP representing the Awami League, who had visited the family home.
5. The First-tier Tribunal found (at paragraph 126) that the photographs showed someone with very severe back injuries, but that "I have very serious doubts whether the photograph shows the Appellant's brother after an alleged attack in 2012". The First-tier Tribunal also did not believe that "the medical report presented reflects the degree of apparent trauma shown to the back of the Appellant's brother." At paragraph 127, the First-tier Tribunal found "it more likely than not that the photograph of the individual claimed by the Appellant to be his brother depicts a person who has been disabled, quite possibly from a young age" and that "I therefore do not accept the account by the Appellant of the stated raid upon the family home and the attacks on his claimed brother and mother in 2012".
6. At the outset of the hearing before us, Ms Cunha for the Respondent conceded that these findings regarding the photographs amounted to an error of law and was a "mistake" which was "crucial" in regard to the Appellant's credibility, although she maintained that it was not a material error. We do not agree. We consider that this admitted error of law was highly material in respect of an assessment of the Appellant's overall credibility and we are therefore obliged to set aside the decision in its entirety. There are no preserved findings of fact and all matters remain live. For that reason, we make no findings in respect of any of the other grounds advanced which we did not need to hear oral submissions about, although we note that in granting leave Upper Tribunal Judge Jackson considered ground (iv) claiming that the First-tier Tribunal Judge perversely made adverse credibility findings solely on the basis of a 'socialist philosophy' was in her view 'in particular is arguable given the considerable weight expressly attached to the Appellant's answers about socialism which may have been misunderstood in the context of the understanding of the question posed through an interpreter".
7. We therefore remit the case to be re-heard in the First-tier Tribunal before any Judge except Judge Buckwell.

Notice of Decision

8. The decision of the First-tier Tribunal involved the making of a material error of law and is set aside.
9. An anonymity direction which had previously been made is continued.

Signed Anthony Metzger QC

Date 2 September 2022

Deputy Upper Tribunal Judge Metzger