



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005994
First-tier Tribunal No:
PA/54075/2021
PA/00262/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 06 July 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

YYS
(Anonymity order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Brown of Counsel
For the Respondent: Mr McVeetie a Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 29 June 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant was born on 29 October 1975. He asserts he is a citizen of Somalia. The Respondent disputes this. He appealed against the decision of the Respondent dated 11 August 2021, refusing his international protection and human rights claim the detail of which is not necessary to recite for reasons that will become clear. This was a fresh claim, there

being an appeal determined on 25 June 2007 (AA/01872/2007) dismissing a similar appeal.

2. He appeals against the decision of First-tier Tribunal Mather, promulgated on 7 October 2022, dismissing the appeal.

Permission to appeal

3. Permission was granted by First-tier Tribunal Judge Barker on 28 November 2022 who stated:

“3. The Judge’s assessment of the evidence relating to the appellant’s nationality, particularly concerning the two witnesses who gave oral evidence, is arguably flawed. The Judge clearly rejects this evidence but arguably does not provide adequate reasons for this finding, or for her findings that this evidence further undermines the appellant’s credibility.”

The First-tier Tribunal decision of 7 October 2022

4. Judge Mather made the following findings:

“26. I do not accept that the new evidence which amounts to evidence from Mr Affi and Mr Al Muradi is sufficient to undermine the findings made by Immigration Judge Hague. I find this evidence yet further undermines the Appellant’s credibility.

27. I do not accept as credible the Appellant’s explanation as to why these two statements were not submitted with the further submissions. I find these statements have been created in an effort to meet the criticisms if the previous letters made by the Respondent in the Reasons for Refusal letter.”

Rule 24 notice

5. There was no rule 24 notice.

Oral submissions

6. Mr McVeetie conceded that the decision of Judge Mather gave no reason why the fresh witness evidence was rejected. Accordingly he conceded that there was a material error of law, and that as it fundamental to the fact finding exercise, the Appellant had not had a hearing and the appeal should be remitted to the First-tier Tribunal for a de novo hearing.

7. Mr Brown agrees.

Discussion

8. The evidence from Mr Affi and Mr Al Muradi was plainly relevant. No reason has been given explaining why the Judge rejected that evidence. There was therefore a material error of law. As it was the core of the fact finding exercise, I agree that remittal to the First-tier Tribunal is appropriate.

Notice of Decision

9. The Judge made a material error of law. I set aside the decision. I remit the appeal to the First-tier Tribunal for a de novo hearing before a Judge other than Judge Mather.

Laurence Saffer

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

29 June 2029