



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006336

First-tier Tribunal No: PA/01616/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 21 June 2023

Before

UPPER TRIBUNAL JUDGE KEITH
DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

'R A' (Bangladesh)
(ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr A Maqsood, Counsel, instructed by Saint Martin Solicitors
For the Respondent: Mr E Terrell, Senior Presenting Officer

Heard at Field House on 26 May 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. These written reasons reflect the oral decision which we gave to the parties at the end of the hearing. The appellant appeals against the decision of a Judge of the First-tier Tribunal, Judge Aldridge, who, in a decision of 14th September 2022, dismissed the appellant's appeals against the respondent's refusal on 1st December 2021 of his claims for refugee status, or in the alternative,

humanitarian protection and also for leave to remain on the basis of Article 8 ECHR, specifically his rights to respect for his family and private life in the UK.

2. At the core of this appeal was the appellant's claim, as a Bangladeshi national, that he feared persecution as a result of political opposition to the Awami League government and its supporters in Bangladesh. He also founded his article 8 claim on the basis of his family relatives in the UK, with whom he had lived since entering this country. The context in that regard is of the appellant arriving in the UK on 7th September 2010, initially with leave, but from 2015 onwards, overstaying. The appellant relied on family life, not with a partner or children, but with his siblings and their minor children. He relied on the real or effective or committed support from those family members in the UK. He also relied on his health issues, specifically that he suffered from diabetes, which could cause him to lose sight and for which he could not afford to receive treatment in Bangladesh, and also his depression.
3. Having reminded himself correctly of the relevant case law, which it is unnecessary for us to recite in these reasons, the Judge did not accept that the appellant had been persecuted as a result of political involvement previously (see §36 of the Judge's decision). He rejected as unreliable documentary evidence, including warning notes and correspondence from a political party in Bangladesh (see §37 and §38). The Judge went on to consider sufficiency of protection and the viability of internal relocation and rejected the appellant's asylum claim or alternatively humanitarian protection at §42 to §44. At §46 to §48, the Judge assessed the risk as a result of the appellant's health, including on the basis that the appellant had family relatives who lived in Bangladesh who would be able to assist him in accessing medical treatment on his return. The Judge rejected the health claims under articles 3 and 8 ECHR.
4. At §49, the Judge stated that:

"The applicant has no partner or dependent children in the UK. I do not consider that it has been demonstrated that family life considerations have been engaged in this matter."
5. The Judge went on to consider the appellant's private life claim, noting the appellant's family in Bangladesh, his having lived in Bangladesh for 30 years before coming to the UK, his education and the ability to have continuing contact with UK family members as part of his ability to integrate in Bangladesh. The Judge expressly referred to section 117B of the Nationality, Immigration and Asylum Act 2002, and made a proportionality assessment at §57, by reference to the well-known balance sheet approach, (see Hesham Ali (Iraq) v SSHD [2016] UKSC 60).
6. In respect of the right to respect for the appellant's private life, the Judge concluded that refusal of leave to remain was proportionate.

The grounds

7. Without criticism in any way of Mr Maqsood, who did not settle the grounds, we did not find the way in which they were drafted was helpful. They were unnecessarily lengthy and made repeated recitals of case law. The substance of the grounds was contained in a small number of sentences and it was a challenge to pick these out, on which Mr Maqsood then sought to elaborate. Those

grounds contained generalised submissions and we refer to this, as an issue arose of whether Mr Maqsood was seeking to extend the grounds beyond those permitted to proceed, which we deal with later in these reasons. The gist of the grounds, which we do no more than summarise, is that the Judge had not adequately considered the appellant's credibility; the respondent ought to have carried out a document verification check on unspecified documents, said to show the appellant's persecution in his country of origin; and the Judge had failed to consider evidence in support of, and consistent with, the appellant's claims. The Judge had also erred in concluding that the appellant could internally relocate, or that there was sufficiency of protection, which was contrary to background evidence. The grounds also argue that the Judge had failed to consider the appellant's family life, on the basis of the absence of a partner or child, when the appellant had made clear that he had relied on the relationship with his siblings and their children in the UK. That undermined the Judge's analysis and in particular, the appellant's claim that he would not be able to maintain his life or survive in Bangladesh, in circumstances where he had lived with his sister since arrival in the UK in 2010, with whom he had a close and dependent relationship, particularly as a vulnerable party.

8. Judge Athwal granted permission on 10th November 2022. The grant of permission was not limited in its scope.

The Hearing before us

9. We turn to the parties' submissions, which we have considered but do not recite in full, except to explain why we have reached the decision we have. We deal with each of the grounds by way of themes.

The challenge to the Judge's assessment of the documentary evidence

10. Mr Maqsood did not refer to the issue of document verification in his submissions. To the extent that the appellant was arguing that the respondent ought to have attempted to verify warning letters, including anonymous ones, we regard that contention as plainly unsustainable.

11. Instead, Mr Maqsood focused on §21 of the grounds, which stated:

"21. It is submitted that the evidence is clear that IJ has not properly, adequately and fairly considered and dealt with the fundamental and important consistency shown in evidence and as such the determination remains erroneous and manifestly unsafe."

12. Mr Maqsood then expanded this in a way objected to by Mr Terrell, to raise six specific points. We accepted Mr Terrell's objection that such an expansion was contrary to the need for procedural rigour and amounted to substantive new grounds, on which no permission had been granted, nor had any application to amend been made, and on which we did not grant permission. Nevertheless, for completeness, we address the six new points:

- (a) The appellant's written witness statement at page 30 of his bundle ('AB') had referred to the early release of the appellant's powerful neighbour in Bangladesh, said to be one of his persecutors. The evidence of early release was consistent with the neighbour's political influence.

- (b) The Judge had been perverse in assessing warning letters as unsigned, when the letter at page 60 AB had referred to a neighbour. Mr Maqsood accepted that this was a perversity challenge, as to which there had been no permission. We also observe that the document relied on states at the top: “The letter is undated and signed anonymously.”
 - (c) The Judge had failed to consider a letter of complaint to the police at page 46 AB, which Mr Maqsood accepts that the Judge referred to at §28 of his decision, but with which he failed to engage.
 - (d) The Judge failed to consider an email exchange with a travel agent at page 58 AB, which once again the Judge had referred to at §28.
 - (e) The Judge failed to consider a newspaper report at page 73 AB, which had referred to the neighbour’s attack.
 - (f) The Judge had failed to consider a witness statement, at page 76 AB, as to the timing and circumstances in which the warning note had been left at the appellant’s family home in Bangladesh.
13. In reality, all that had been included in the grounds was a generalised assertion of a lack of appreciation of the consistency of the appellant’s evidence. That does not, in our view, warrant an expansion of the grounds to specific parts of the evidence and the perversity challenge as outlined. However, in considering the substance of the more detailed challenge, we accept Mr Terrell’s submission (and regard it as trite law) that the Judge did not err in not referring to each and every source of evidence, provided that he has considered all of it, which he expressly stated that he had done. He went beyond this, to summarise the strands of evidence, such as documentary evidence, at §37, and to discuss specific pieces of evidence, such as a letter from a supporter at §38. The fact that the appellant now wishes to urge on us other aspects of the evidence, to which the Judge did not go into that level of detail in his analysis, is, in essence, a disagreement with those findings. What he invites us to do, to pick the example of the newspaper report, is to say that because this was not referred to expressly or analysed, the Judge ought to have accorded it more weight. The Judge had clearly explained why he had attached limited weight to the documentary evidence as a whole and in the context of the wider evidence. The Judge did not err in doing so.

The challenge to the Judge’s reasons on internal relocation and sufficiency of protection

14. As with the other grounds, the challenge to the Judge’s conclusions was put in very generalised terms, merely reiterating evidence said to support the appellant. In contrast, the Judge’s reasons at §§39 to 40 were detailed and comprehensive. As we have concluded that the challenge to the Judge’s assessment of the appellant’s fear of persecution has no merit, so this ground must also fail, but for completeness, we also conclude that this challenge amounts to no more than a disagreement with the Judge’s conclusions.

The challenge to the Judge’s assessment of family life

15. Mr Maqsood argued that in relation to family life, the Judge had failed to assess or adequately explain why there was no family life, bearing in mind the evidence,

in particular the co-habiting sister's written witness statement. Moreover, even though the sister had not given live evidence, her brother had, and he had attested to the closeness of the relationship which included cohabitation over many, many years and also the fondness of the relationships with children within the family. That required an assessment of the quality of the family life before then coming on to proportionality. It was alternatively insufficiently considered in the context of private life and the appellant's ability to relocate within Bangladesh. Mr Maqsood argued that the error was material.

16. We accept that the Judge erred in his reasons for not accepting the existence of Article 8 family life, when the appellant had relied on family life with his siblings and their children, rather than a spouse and children of his own in the UK. However, we also accept Mr Terrell's submission that in this particular case, the error was not such that we ought to set aside the Judge's decision. The reason is that the Judge did make findings in relation to those family members, as forming the basis of a private life, the interference with which the Judge accepted would engage Article 8, but which the Judge concluded was proportionate. This included an assessment of his ability to maintain contact with his UK family and also his family support in Bangladesh (§51 and 52); his support from UK family members, such that he was not a financial cost to the UK taxpayer (§59) and the disruption to his relationship with his UK family and close friends in the event of his removal (§66). In essence, the Judge was clearly conscious of the appellant's case of his close relationship with his siblings and their children, over a lengthy period of time, but also where his presence in the UK was, for many years, without leave, or any expectation of settlement and where the Judge concluded that he also had supportive family members in Bangladesh and would be able to maintain contact with UK family members. We are satisfied that despite the error, the Judge's decision is not one which is unsafe and should be set aside. This ground also therefore fails.

Notice of decision

The decision of the First-tier Tribunal did not involve the making of an error, such that it should be set aside.

The decision of the First-tier Tribunal stands.

The anonymity directions continue to apply.

J Keith

Judge of the Upper Tribunal
Immigration and Asylum Chamber

12th June 2023