



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001329

First-tier Tribunal No: PA/55016/2022
LP/00036/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 6 August 2024**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**KS
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel, instructed by the Greater Manchester Immigration Aid Unit.

For the Respondent: Mr C Bates, a Senior Home Office Presenting Officer.

Heard at Manchester Civil Justice Centre on 29 July 2024

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 appeals with permission a decision of First-tier Tribunal Judge Jepson ('the Judge'), promulgated following a hearing at Manchester Piccadilly on the 3 March 2023, in which the Judge dismissed the Appellant's appeal against the refusal of his application for international protection and/or leave to remain in United Kingdom on any other basis.

2. The Appellant is a citizen of Iraqi born on 8 June 1988.
3. Two of the grounds of appeal relied upon by the Appellant raise points of fairness. Ground 1 asserts the Judge went behind an accepted fact in the refusal letter contrary to a clear concession by the Secretary of State. At [25 – 29] the Respondent accepted the Appellant worked as a peshmerga and as a bodyguard for his cousin based on external country evidence and internal consistency. The concession was not withdrawn prior to the hearing, there was no attendance by the Respondent’s representative to do so, and the Judge failed to give notice to the Appellant that it was intended to depart from the concession.
4. Ground 2 asserts a failure to put material matters to the Appellant.
5. On behalf of the Secretary of State Mr Bates conceded Ground 1. He also accepted that the Judge’s findings on this point ran through the other findings made, and that this error was therefore material.
6. In light of the concession, I find the Judge has erred in law in a manner material to the decision to dismiss the appeal on the basis of the accepted procedural unfairness in going behind the concession without giving due notice to any of the parties, and particularly the Appellant.
7. In light of the fact the Judge’s findings are infected by this error, which was clearly a factor taken into account by the Judge, it is appropriate, having had regard to guidance provided in authorities and elsewhere, for the appeal to be remitted to be heard afresh by a judge other than Judge Jepson.

Notice of Decision

8. The Judge erred in law in a manner material to the decision to dismiss the appeal. I set the decision aside.
9. The appeal shall be remitted to the First-tier Tribunal sitting at Manchester Piccadilly to be heard de novo by a judge other than Judge Jepson.
10. An interpreter in the language used at the first hearing before the First-tier Tribunal shall be provided for the purposes of the further hearing.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

29 July 2024