



IAC-PE-SW-V1

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

Appeal Number: IA/44512/2014

THE IMMIGRATION ACTS

**Heard at Manchester
On 14th January 2016**

**Decision & Reasons Promulgated
On 21st January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE BAIRD

Between

**MD MOIN UDDIN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representation

For the Respondent: Mr McVeety - Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by MD Moin Uddin, a citizen of Bangladesh born 20th June 1997. He appeals against the determination of First-tier Tribunal Judge Edwards issued on 14th January 2015 dismissing on asylum and human rights grounds the Appellant's appeal against the decision of the Respondent made on 3rd October 2014 to refuse to grant asylum and to remove him from the United Kingdom.

2. On 12th March 2015 a Designated Judge of the First-tier Tribunal refused permission to appeal. He noted that central to the Judge's reasons for dismissing the appeal was the notion that the Appellant's mother and brother had returned to the source of the alleged danger. With regard to the best interests of the Appellant he said that no human rights points were taken at the appeal and there therefore could be no basis for saying that the Judge erred in not dealing with them at the hearing. He took into account that the Appellant had been represented at the hearing. The application was renewed before the Upper Tribunal and the Judge granted permission saying:

“The findings of the First-tier Tribunal are clear and sustainable concerning the asylum plus humanitarian protection issue and the grounds do not demonstrate any arguable error of law in the findings reached in this respect which were open to the judge to make on the evidence that was before him. However, the renewed grounds make reference to the Judge's failure to properly consider Article 8 of the ECHR bearing in mind that the Appellant was a minor who had been living in the United Kingdom since 2009. I consider this as arguable. Whilst the judge recorded at paragraph 30 that no Article 8 point arose in the case this is not consistent with the submission made at paragraph 20 although that does not seem to reflect the Appellant's circumstances or at paragraph 31 where the Judge recorded the Appellant to be a minor but found that he should be reunited with his family in Bangladesh. Consequently there is an arguable issue relating to Article 8 of the ECHR. Permission is granted on that ground only.”

3. The Secretary of State in a Rule 24 Notice said that it cannot reasonably be read down from the contents of paragraph 20 that Article 8 was argued in respect of the Appellant's private life. It is clear from the determination and the application that the Appellant had family in Bangladesh and that his account was thoroughly discredited. Additionally it is also clear that Article 8 was not relied upon by the Appellant via his representatives nor the drafter of the grounds.
4. The Appellant appeared before me. He was unrepresented. It was submitted in the grounds to the Upper Tribunal that paragraph 276ADE of the Immigration Rules ought to have been considered given that the Appellant has been in the UK for almost six years. The grounds say that it is not disputed that Article 8 of the ECHR was not pursued. It says “probably the reason could be that there were no exceptional circumstances”.
5. The fact of the matter is that the Appellant was represented before Judge Edwards. It is clear from the determination and from the grounds that Article 8 was not relied upon. He said at paragraph 30:

“Mr Muhammad (the Appellant's representative) confirmed that no Article 8 point arose in this case, I agree.”

The Upper Tribunal Judge who granted permission relies on paragraph 20 in which reference is made by Judge Edwards to the 'Appellant's daughters' in the UK. This does not make sense as the Appellant was only 17 years old and there is no mention anywhere else of any children. This was presumably an error. Judge Edwards did consider Section 55 of the Borders, Citizenship and Immigration Act 2009 having noted that the Appellant was at the date of the hearing a minor. He said that he

would be able to be reunited with his family in Bangladesh which would facilitate his welfare.

6. I have given careful consideration to this matter. I accept that there is a little confusion in the determination but I am satisfied that Article 8 was not raised before the Judge. There is no evidence in the papers before me of any element of a private life in the UK to compel any Judge to make a finding that the Appellant's removal would be disproportionate to the need for effective immigration control. His asylum appeal was dismissed. Permission to appeal that decision was refused. His mother and brother have returned to Bangladesh. In all these circumstances I find that there was no material error of law in the determination of the First-tier Tribunal and that decision is upheld.

Notice of Decision

The decision of the First-tier Tribunal shall stand. The Appellant's appeal is dismissed.

No anonymity direction is made.

Signed

Date: 14th January 2016

N A Baird
Deputy Judge of the Upper Tribunal