



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

Appeal Number: PA/02602/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 27<sup>th</sup> October 2017**

**Decision and Reasons  
Promulgated  
On 07<sup>th</sup> November 2017**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**NOORE ALAM JAHANGIR  
(Anonymity Direction Not Made)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Dr R Wilcox, instructed by Blackrock solicitors  
For the Respondent: Mr P Nath, Senior Home Office Presenting Officer

**DIRECTIONS**

1. The appellant's appeal against the decision of the respondent refusing his claim for international protection was dismissed by First-tier Tribunal Judge Manyara for reasons set out in a decision promulgated on 27<sup>th</sup> April 2017. He sought

permission in grounds which run to just over 4 pages. In essence, he relies upon the following grounds:

- (a) The judge erred in giving no importance to documentary and oral evidence; gave “very light weight” to documents; his evidence was entirely consistent with the documentary evidence on the situation in Bangladesh;
- (b) The documents relied upon are genuine;
- (c) The judge erred in referring, twice, to the appellant’s country of origin as Pakistan whereas he is from Bangladesh;
- (d) In paragraph 19 the judge refers to Mohammad Abdus Salam giving oral evidence whereas he did not;
- (e) Every person with the slightest link to a political opposition party is in real risk of persecution;
- (f) The judge “totally” failed to take into consideration his established family and private life.

2. Dr Wilcox sought permission to amend the grounds of appeal to rely upon a failure on the part of the judge to take account of the appellant’s involvement and leadership role in Jassus UK, a cultural entity within the BNP. He referred to the list that had been produced by the appellant was a list which showed membership of Jassus, not the BNP. Furthermore, he asserted that the judge had erred in mistaking the appellant’s claimed role in the BNP as a claim to be in a leadership position within the organisation rather than a local leadership position within the student wing where he came from. Mr Nath opposed the amendment at such short notice. I refused to grant him permission to amend the grounds – the grounds relied upon had been drafted in May 2017 (not by counsel but by the appellant’s instructed solicitors) and the Notice of hearing had been sent on 8<sup>th</sup> September 2017. There had been plenty of time to amend the grounds and such short notice was incompatible with enabling the respondent to address detailed amended grounds.
3. Dr Wilcox submitted that although he had sought to amend the grounds, his submissions, both oral and as set out in the skeleton argument, were an amplification of the errors of fact made by the judge which were typified by the mistake made as to who had actually given oral evidence. Although Dr Wilcox did not withdraw reliance upon the references to Pakistan he did not place weight upon this, acknowledging that this may well be classified as a “cut and paste” error.
4. Mr Nath submitted that the evidence overall had been set out correctly in the First-tier Tribunal decision and the incorrect naming of the person who gave oral evidence was akin to giving the country of origin as Pakistan rather than Bangladesh.
5. The grounds are, to a large extent, exhortations to reach a different conclusion rather than identification of potential or real errors of law. I have not permitted an amendment to the grounds seeking permission but I accept that Dr Wilcox’s submissions with regards to the witness giving evidence are amplification rather than a new ground. The incorrect identification of Mr Salam as having given evidence, when he did not, is more than a “cut and paste” type of error. Although the incorrect identification, twice, by the judge of the appellant coming

from Pakistan would not of itself be sufficient to amount to an error of law, the combination of that with the error in who gave evidence is indicative of a lack of anxious scrutiny by the judge.

6. This is an asylum appeal. It is incumbent upon a judge to have proper regard to the evidence before him/her. The wrongful stating that someone gave evidence when they did not is a failure by the judge to have proper or adequate regard to the evidence before him and is a material error of law. I set aside the decision of the First-tier Tribunal judge.
7. There has been a fundamental failure to have proper regard to the evidence and the findings made are unsafe. It is not the role of the Upper Tribunal to be a primary fact finder. I remit the appeal to be heard afresh by the First-tier Tribunal.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I set aside the decision

I remit the decision to the First-tier Tribunal for a fresh decision to be made.



Date 31<sup>st</sup> October 2017

Upper Tribunal Judge Coker