



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05499/2016

THE IMMIGRATION ACTS

Heard at Field House
On 12th October 2017

Decision & Reasons Promulgated
On 30th October 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

MS IB
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Hyder of Reza Solicitors
For the Respondent: Ms J Isherwood, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a citizen of Bangladesh, appealed to the First-tier Tribunal against the decision of the Secretary of State of 17th May 2016 to refuse her application for asylum. First-tier Tribunal Judge Keane dismissed the Appellant's appeal in a decision promulgated on 4 May 2017. The Appellant now appeals with permission granted by Upper Tribunal Judge Plimmer on 22nd August 2017.
2. The background to this appeal is that the Appellant entered the UK as a student on 21st April 2008. She was granted further leave to remain as a student on a number of

successive occasions. Her application for leave to remain on the basis of private and family life was refused in June 2015 without a right of appeal. She submitted a further application for a Tier 2 (General) Migrant, which was refused, and on 2nd December 2015 she made an application for asylum. The basis of the Appellant's claim is that she is from a Buddhist Chakma community (this was accepted by the Secretary of State). She claims that she had written articles and blogs criticising the Government and that she had come to the attention of the authorities as a result of this. She claims to have been involved with a number of Buddhist youth organisations. She claims that the authorities came to her parents' home and threatened her in October 2015.

3. In dismissing the Appellant's appeal the judge took into account the background evidence which he said "*provided support for the Appellant's claim that she was a thorn in the flesh of the government during the 1990s and periodically after the millennium and until her blog was shut in 2010*" [15]. The judge went on at paragraph 16 to say that "*Notwithstanding the support which the background evidence rendered the Appellant's claims of fact I find that she was not a credible witness and did not give a credible account of events*". The judge went on to highlight the aspects of credibility in relation to the Appellant's claim and dismissed the appeal on credibility grounds.
4. In the renewed grounds to the Upper Tribunal a number of criticisms are made of the First-tier Tribunal Judge's decisions and permission was granted on the basis that it was arguable that the First-tier Tribunal failed to take into account the details contained in the asylum interview before drawing adverse inferences in relation to the Appellant's "*propensity to elaborate*".
5. In refusing permission in the First-tier Tribunal and in the grant of permission by the Upper Tribunal both judges highlight that there are very lengthy findings of fact and the grounds contain lengthy disagreements with those findings.
6. In considering the reasons given by the First-tier Tribunal Judge for his conclusions I remind myself of the guidance given by the Court of Appeal for example in **AS (Iran) v SSHD** [2017] EWCA Civ 1539 where Irwin LJ said at paragraph 26:

"In approaching criticism of reasons given by a First-tier Tribunal, the Respondent correctly reminds us to avoid a requirement of perfection. As Brooke LJ observed in the course of his decision in *R (Iran) v The Secretary of State for the Home Department* [2005] EWCA Civ 982, "unjustified complaints" as to an alleged failure to give adequate reasons are all too frequent. The obligation on a Tribunal is to give reasons in sufficient detail to show the principles on which the Tribunal has acted and the reasons that have led to the decision. Such reasons need not be elaborate, and do not need to address every argument or every factor which weighed in the decision. If a Tribunal has not expressly addressed an argument, but if there are grounds on which the argument could properly have been rejected, it should be assumed that the Tribunal acted on such grounds. It is sufficient that the critical reasons to the decision are recorded. ..."

7. The first ground highlighted by Mr Hyder at the hearing relates to paragraph 19 of the decision and the judge's conclusion that the Appellant had elaborated on her evidence. In particular he referred to the judge's assertion that the Appellant only mentioned for the first time at the hearing the assertion that the Awami League had collected and read her blogs. He referred to questions 195 and 205 of the asylum interview and paragraph 23 of the Appellant's witness statement. However, whilst at the interview and in the witness statement the Appellant referred to her blog being closed down Mr Hyder did not point me to anywhere where she said that the Awami Government had read her blogs. Therefore the judge was entitled to find that the Appellant only mentioned this for the first time at the hearing and that her doing so was an embellishment or elaboration of her account which damaged her credibility.

8. The second issue highlighted by Mr Hyder was at paragraph 20 of the judge's decision where the judge said that the Appellant had not previously mentioned that the DGFI were the organisation which came to her parents' house. The judge concluded:-

"From vague references to the individuals, from amorphous references to them such as 'unknown people' to reference to a specific group part of or associated with the Bangladeshi Government amounted in my judgment to extreme elaboration which damaged the Appellant's credibility".

9. Mr Hyder pointed out that the Appellant had said in the screening interview that unknown people had come to her house but had said in the asylum interview that the DGFI had come to their home.

10. However, I accept Ms Isherwood's submission in relation to this issue. She highlighted that in reaching the finding about elaboration in relation to the organisation alleged to have threatened her, the judge was looking at the evidence in the context of the Appellant's overall claim. At Part 7 of the screening interview the Appellant is recorded as having said:-

"I am claiming asylum today because I have received threats from unknown people saying because of my blog and social connectivity. Because I write for minority and ethical and freedom of expression I am now receiving threats from unknown people".

11. However, this Appellant had been in the UK for over 7 ½ years at the time of her screening interview. She was not someone who had just arrived in the UK. Further, this Appellant was someone who claims to have been writing a blog against the Government up until 2010 and who had been politically involved and connected before that. I accept that the Appellant did mention the DGFI at question 191 of her asylum interview. Accordingly the judge erred in saying that the Appellant first mentioned the DGFI prior to the skeleton argument. However, in my view, in the particular circumstances of this case this is not a material error in light of the other findings and the other evidence and it was reasonable for the judge to draw an adverse inference from the Appellant's failure to mention the name of the organisation in her screening interview.

12. Mr Hyder referred to the discrepancy in the Appellant's evidence as to whether the authorities had visited her parents' home in October 2015 or 2016. This is dealt with by the judge at paragraph 18 of the decision where the judge highlighted that in the asylum interview (Q36) the Appellant referred to people coming to her parents' house in October 2015 and that she had stated this also in her witness statement, however at the hearing she initially said that they came in 2016 before correcting it in re-examination. In Mr Hyder's submission this is an issue which anyone could have been mistaken about and that the Appellant had corrected this in re-examination. It is clear that the judge acknowledged that the Appellant referred to October 2015 in her asylum interview and that, despite saying October 2016 in examination-in-chief, she changed it to October 2015 in re-examination. However the judge went on to conclude that he may have overlooked the inconsistency if the Appellant had alleged more than one incident, but in light of the fact that there was only one event he could not [18]. In my view it was open to the judge in light of the Appellant's overall evidence to conclude that an inconsistency in relation to the one significant event that she says led directly to her claiming asylum was a significant inconsistency which went to the core of the Appellant's credibility.
13. Mr Hyder submitted that the judge made a mistake in relation to his assessment of the Appellant's evidence that she had received threats through Facebook. He relied on pages 81 to 85 of the Appellant's First-tier Tribunal bundle. At paragraph 23 the judge correctly identifies that the Appellant's Facebook status is from 12th January 2015. Mr Hyder relied on page 85 which he said contains threats to the Appellant, and he said that these were by way of a personal message rather than Facebook posts and accepted that there were no dates on these messages. Therefore the evidence produced does not indicate that the messages were received at a time other than January 2015. In these circumstances the judge's finding that the Appellant's credibility was damaged by her failure to claim asylum until December 2015 despite claiming to have received threats in January 2015 was not based on a mistake of fact. The judge's conclusions at paragraphs 22 and 23 on the basis of the Facebook posts status were open to him on the basis of the evidence before him.
14. I agree that the decision of the First-tier Tribunal could have been more concise and focused. However, it is my view that read overall the judge considered all of the relevant aspects of the Appellant's case and gave sufficient reasons for rejecting the Appellant's account. Contrary to the assertion in the grounds the judge did not misunderstand the evidence. The judge did take account of the interview and the statements. The grounds are simply a disagreement with the findings of the judge. I find that the conclusions of the judge were open to him on the basis of the evidence before him.

Notice of Decision

The decision of the First-tier Tribunal did not contain a material error of law.

The First-tier Tribunal decision shall stand.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 27th October 2017

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT
FEE AWARD

As the appeal has been dismissed there is no fee award.

Signed

Date: 27th October 2017

Deputy Upper Tribunal Judge Grimes