



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

Appeal Number: PA/12442/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 11th October 2017**

**Decision & Reasons
Promulgated
On 23rd October 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

**AH
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Mahmood, Counsel instructed by Nova Solicitors

For the Respondent: Ms Z Ahmad, Senior Home Office Presenting Officer

DECISION AND REASONS

- 1.** The Appellant is a citizen of Bangladesh whose appeal was dismissed by First-tier Tribunal Judge O'Garro in a decision promulgated on 21st February 2017.
- 2.** Grounds of application were lodged and it was said that the judge had been wrong to conclude that the answers provided in the screening interview were materially different to the answers in the substantive

interview. As such the finding at paragraph 52 of the decision, namely that the Appellant did not disclose that he feared the authorities in Bangladesh in his screening interview was unsound and simply wrong. Other grounds are put forward.

3. Permission to appeal was granted.
4. Thus the matter came before me on the above date.
5. Mr Mahmood appeared for the Appellant and relied on the grounds and also lodged a skeleton argument which expanded on the grounds. It is not necessary to go further into this because it was accepted by Ms Ahmad for the Home Office that the grounds were well-founded and the decision would have to be set aside and the case heard again.
6. The concession was well-made in my view because it is clear that the judge has misunderstood the Appellant's answers in the screening interview when comparing those in the substantive interview. He was wrong to conclude that they were different. Perhaps the answer in the screening interview could have been clearer but there is no inconsistency as found by the judge and therefore the whole reasoning for dismissing the case therefore cannot stand. In particular the conclusion at paragraph 52 that the Appellant did not disclose that he feared the authorities in Bangladesh is clearly wrong. On these findings alone the decision cannot be allowed to stand. There are other problems in the decision which it is not necessary to elaborate on.
7. Because the findings are not safe and because further fact-finding is required the appeal is going to have to be heard again by the First-tier Tribunal.
8. The decision of the First-tier Tribunal is therefore set aside in its entirety. No findings of the First-tier Tribunal are to stand. Under Section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 the nature and extent of the judicial fact-finding necessary for the decision to be re-made is such that it is appropriate to remit the case to the First-tier Tribunal. In the meantime the anonymity order will be continued.

Notice of Decision

9. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
10. I set aside the decision.
11. I remit the appeal to the First-tier Tribunal.

Order 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 him or any member of their family. This order applies both to the Appellant and to the Respondent. Failure to comply with this order could lead to contempt of court proceedings.

Signed *JG Macdonald*

Date 20th October 2017

Deputy Upper Tribunal Judge J G Macdonald