



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

Appeal Number: PA/13738/2016

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

On 6th November 2017

On 7th November 2017

Before

UPPER TRIBUNAL JUDGE COKER

Between

**NB
(Anonymity direction made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Kirk, instructed by Elder Rahimi Solicitors

For the Respondent: Mr P Singh, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as NB. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. Upper Tribunal Judge Martin granted permission to appeal the decision of the First-tier Tribunal judge dismissing the appellant's appeal against the respondent's decision to refuse international protection, in the following terms:

It is arguable that, although the Decision and Reasons purports to give detailed reasons, when reading it it does not in fact do so; rather it is more a rehearsal of the claim. In particular the judge said at paragraph 58 that the claim is beset with inconsistencies but apart from one that the judge says he discounted I can discern no others that the judge identified. It is arguable that the Decision and Reasons is inadequately reasoned.

2. Mr Tarlow, on behalf of the respondent resiled from the Rule 24 response which sought to argue that the grounds were little more than an attempt to reargue the appellant's appeal and accepted that there was a lack of resonating in the decision, a lack of identification of the nature of the case, a failure to have adequate regard to the appellant's age and the decision was a mere recitation of the claim with no reasoned findings.
3. The First-tier Tribunal judge erred in law and I set aside the decision to be remade
4. There have been no findings. The scheme of the Tribunals Court and Enforcement Act 2007 does not assign the function of primary fact finding to the Upper Tribunal.
5. The Practice Statement dated 25th September 2012 of the Immigration and Asylum Chamber First-tier Tribunal and Upper Tribunal states:

7.2 The Upper Tribunal is likely on each such occasion to proceed to re-make the decision, instead of remitting the case to the First-tier Tribunal, unless the Upper Tribunal is satisfied that:(a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for that party's case to be put to and considered by the First-tier Tribunal; or (b) the nature or extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2, it is appropriate to remit the case to the First-tier Tribunal.

6. Having regard to the evidence to be heard and the fact finding required, I remit this appeal to the First-tier Tribunal to be heard afresh.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remit the appeal to the First-tier Tribunal.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Date 6th November 2017

A handwritten signature in black ink, appearing to read "Jane Coker", enclosed within a thin black rectangular border.

Upper Tribunal Judge Coker