



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00502/2018

THE IMMIGRATION ACTS

Heard at Field House
On 25 May 2018

Decision & Reasons Promulgated
On 5 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

MR M N M
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Z Raza, Counsel, instructed by SEB Solicitors
For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Bangladesh born on 21 December 1991. He appealed on protection grounds against a decision of the Respondent dated 18 December 2017 refusing to grant him asylum. His appeal came before Judge of the First-tier Tribunal Meah at a hearing on 6 February 2018.
2. In a Decision and Reasons promulgated on 23 February 2018, the judge dismissed the appeal essentially on the basis that he did not find the Appellant's claim to be credible. The claim that he put forward is that he feared to return to Bangladesh as a member and General Secretary of the Chhatra Sibir group, which he was involved with while attending the Modern Mohon College in Sylhet. He claimed as a consequence of his involvement there was a false murder charge outstanding against him and that he was at risk of being falsely imprisoned and subjected to threats and harassment by the Awami League if returned to Bangladesh.

3. An application for permission to appeal to the Upper Tribunal was sought in time on the basis that the judge had erred materially in law: 1) in failing to make findings in respect of crucial evidence and material aspects of the claim, in particular a newspaper article which bore his photograph and 2) that the judge failed to give proper reasons in respect of credibility, and reference was made to MK (duty to give reasons) Pakistan [2013] UKUT 641 (IAC), 28 October 2013.
4. There is further reference to the judge placing weight on discrepancies between the Appellant's interview record and his oral evidence in respect of whether he said it was a maternal aunt or an aunt who was a distant relative and the fact that the newspapers articles submitted were not verified and the First Information Reports (FIRs) were verified in respect of the wrong police station, i.e. Bishwanath rather than Kotwali. It was submitted that the judge's approach to this evidence at [31] of his decision was flawed and unsustainable.
5. Permission to appeal was granted by Judge of the First-tier Tribunal Landes in a decision dated 22 March 2018, in part on the basis:

"Whilst there is no obligation on the Respondent to verify documents the grounds are arguable. It is arguable that the judge did not consider the evidence in the round and should have considered the weight he could give to the documents as independent evidence and then factored that into his overall credibility findings rather than simply assessing the documents on the basis he had already (and without reference to the documents) found the Appellant not to be credible."

Hearing

6. At the hearing before me, Mr Raza made submissions on behalf of the Appellant in line with the contents of the grounds of appeal. On behalf of the Secretary of State Mr Tufan sought to rely on a Rule 24 response dated 2 May 2018, which asserted that the judge had given specific reasons for his findings in light of the judgment in Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC). However, he accepted that at [31] of the Decision and Reasons the judge had made essentially a technical error but this did not make a material difference to the outcome of the appeal. In respect of the newspaper reports, he submitted, the failure to deal with them was not a material error.
7. In his response Mr Raza submitted that the documents specific to the Appellant which were submitted on his behalf were clearly material to an assessment of his credibility.

Decision

8. I find material errors of law in the decision of First-tier Tribunal Judge Meah. At [31] of the judgment the judge states as follows:

"Similarly, I also noted the newspaper articles submitted in support of both the application and the appeal purporting to name and contain a photograph of the Appellant which were submitted to give substance to the claim that his life was in danger in Bangladesh. I have already found the Appellant's claim to be incredible and I therefore apply that which is stated in the cases of Tanveer Ahmed [2002] Imm AR 318

(STARRED) and MA (Bangladesh) [2016] EWCA Civ 175 in this regard and I am therefore not prepared to attach any weight to this evidence."

9. The difficulty with the judge's approach is that it is clear from the established jurisprudence and in particular the case of Mibanga [2005] EWCA Civ 367 that it is necessary to assess the credibility of an Appellant in light of all the evidence including background and documentary evidence. Therefore the judge at [31] fell into clear error in his approach to the issue of the Appellant's credibility and the documentary evidence. His approach should have been to have assessed the documentary evidence on an individual basis and as a whole and then to have reached his findings and conclusions in respect of the Appellant's evidence in light of the evidence as a whole.

10. Similarly, at [32] the judge found:

"Furthermore, in dealing with Mr Raza's particular contention on the issue of Bishwanath station being approached rather than the one at Kotwali for the purposes of the verification, even if these were verified as being from Kotwali, this would not have changed my finding regarding the Appellant's overall credibility or lack thereof, hence these also would not have been afforded any weight in line with that which is stated in Tanveer Ahmed and MA (Bangladesh)."

11. For the same reasons I consider that the judge fell into error in his assessment of the document verification reports, to which no weight could be attached in light of the fact that they endeavoured to verify First Information Reports at the incorrect police station. The judge's finding that even if these documents were verified as being from Kotwali this would not have changed is clearly unsustainable in light of the Mibanga line of jurisprudence.

Notice of Decision

12. Therefore, for the reasons set out above, I find that the First-tier Tribunal Judge made errors of law which were material to the outcome, in particular his approach to the assessment of the Appellant's credibility was flawed. I set aside his decision and remit the appeal for a hearing *de novo* in the First tier Tribunal.

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 him or any member of his 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 *Rebecca Chapman*

Date 5 June 2018

Deputy Upper Tribunal Judge Chapman