



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/01845/2018**

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 22 October 2018**

**Decision Promulgated
On 31 October 2018**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**SA
ANONYMITY DIRECTION MADE**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Mustafa, Kalam Solicitors

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION 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 original first Appellant in this determination identified as SA.

Introduction

1. I have anonymised the appellant's name because this decision refers to his international protection claim and refers to his minor children.

Background

2. The appellant is a citizen of Bangladesh, who arrived in the United Kingdom ('UK') on 5 February 2002 as a visitor. He overstayed and has remained in the UK unlawfully. He made a human rights application in 2009, which was refused in 2010. The appellant continued to stay in the UK unlawfully after this.
3. The appellant married his wife in the UK in December 2011. She had entered the UK as a student in October 2011, but has also overstayed. They have two children, born in the UK in 2015 and 2017 respectively.
4. The respondent has claimed that the appellant was served with notice that he was an overstayer on 25 July 2017 and claimed asylum after this on 26 July 2017. He was interviewed on 26 October 2017 and 15 January 2018.
5. The respondent refused the asylum claim for reasons set out in a detailed decision letter dated 24 January 2018, and the appellant appealed to the First-tier Tribunal ('FTT'). In a decision dated 6 August 2018 the Upper Tribunal set aside the FTT decision and the matter was transferred to me for the decision to be remade.

Hearing

Issues in dispute

6. At the beginning of the hearing before me both representatives agreed that the appeal raised the following issues:
 - (i) Was the appellant's claimed membership of the BNP and his claim that he was attacked in September 2001 because of his political activities credible?
 - (ii) Is the appellant at prospective risk of persecution in light of his claimed past persecution in Bangladesh and his additional claim that his wife's family do not support their marriage?
7. I clarified two matters with Mr Mustafa: (i) he confirmed that he did not seek to place any reliance on sur place political activities in the UK, notwithstanding photographs of the appellant at party conferences in the bundle and conceded that "*there is none*" - see also the appellant's confirmation of this at Qs 105-108; (ii) although reliance was faintly placed upon Article 8 in his skeleton argument, Mr Mustafa conceded that the appeal could not be allowed on Article 8 grounds given the applicable legal framework and the factual matrix.

Evidence

8. The appellant relied upon a 301-page bundle in support of his case. This included a witness statement dated 15 October 2018 and two letters from the BNP dated 12 February 2018.
9. The appellant gave evidence through an interpreter and was cross-examined by Mr McVeety. There was no re-examination and no other witnesses.

Submissions

10. Mr McVeety relied upon the decision letter. He described the appellant's evidence as vague, inconsistent and implausible and invited me to find that he was an unreliable witness, particularly given his delay in claiming asylum. He also drew my attention to deficiencies within the BNP letters. Mr McVeety submitted that the appellant's claim was wholly incredible but that even if he was attacked in 2001 he would not be at risk upon return given the passage of time and the absence of any continued BNP involvement.
11. Mr Mustafa relied on his skeleton argument, subject to his earlier acceptance that he no longer advanced submissions on the basis of Article 8 and wished to rely solely on the claim for international protection. He invited me to find that the appellant had provided reliable evidence supported by the BNP letters. He submitted that if the respondent disputed the reliability of these, there was an obligation to investigate their veracity.
12. At the end of submissions, I reserved my decision, which I now provide with reasons.

Findings

Credibility of account

13. I must apply the lower standard of proof when assessing whether the appellant has been the subject of past persecution or is at future risk of persecution. I acknowledge that parts of the appellant's claim are generally consistent with the country background evidence on the treatment of political opponents in Bangladesh. I also acknowledge that the appellant has demonstrated basic knowledge of the BNP at his asylum interview and there is a reasonable likelihood that he played a minor role in the BNP at a local level, prior to leaving Bangladesh. I also accept that it is reasonably likely that the appellant attended a BNP meeting on 23 September 2001 and that this meeting may have been subject to interference and attack by local members of the Awami League, given the appellant's description of this incident at his interview, the imminence of the

elections in Bangladesh at the time and the country background evidence generally supportive of such behaviour – see in particular the CPIN on Bangladesh dated January 2018.

14. I do not accept that it is reasonably likely that the appellant was specifically targeted, that a false case was lodged against him or that it was necessary for him to go into hiding. The appellant was cross-examined by McVeety about all of these matters but provided vague responses and unreliable evidence.
15. First, the appellant was unable to credibly explain why he believed he should continue to remain in hiding and then leave Bangladesh in February 2002 when the BNP were successful in the October 2001 elections and were in power shortly after the incidents he complained of and at the time of his departure. The appellant merely reasserted that a false case had been filed against him by the previous administration but was wholly unable to explain why the new administration would wish to pursue a false case against one of its own supporters.
16. Secondly, although the appellant claimed to hold a position of seniority at the local level he was unable to explain why others at the meeting who also held positions of seniority were ignored by the Awami League at the time, and why he was targeted in the lodging of the false case against him.
17. Thirdly, the appellant explained that he made contact with the leaders in the BNP at that time and they tried to assist but were unable to do so. When asked why the BNP letters entirely omitted any reference to the appellant having sought assistance following the September 2001 attack and in relation to the false case, he said that he was unable to fully explain his situation to the authors of the letters. This is difficult to follow. The appellant appeared to say that the letters included only that information which he considered it was important to include and did not derive from the author's own knowledge or information. This in itself renders the information contained in the letters only as reliable as the information that was being communicated. This does not explain why the appellant would omit the only incidents that he claims caused him to leave Bangladesh in his communications with the BNP for the purpose of preparing letters in support. I have placed very little weight on the two BNP letters. They are signed by the BNP's General Secretary and President respectively, yet the three short paragraphs have the exact same wording save for one refers to being Secretary and the other President. In addition, the contents are vague. His roles are summarised between 1993 and 2000 but no specifics are offered. No effort has been made to particularise his role after 2000. He is described as a "*strong advocate*" for the party who has regularly attended meetings, yet no timeline is given for this. This cannot be

recent given Mr Mustafa's concession that the appellant has not undertaken any sur place political activities.

18. I reject Mr Mustafa's submission that there was an obligation on the part of the respondent to conduct further enquiries into the letters. This submission was not expanded upon either in writing or orally. Having considered the BNP letters in the round, I have come to the view that they do not provide a reliable picture of the appellant's role with the BNP.
19. In addition, the appellant's asylum claim is predicated upon a claimed event in Bangladesh in 2001 and his consequent departure in 2002, yet he delayed until 2017 before claiming asylum. The explanation for this is wholly incredible. The appellant has implausibly explained that he did not know about the asylum process even though he claims to have gone to college and to be educated to degree level. Further, when asked why he felt able to claim asylum in 2017 in cross-examination he said that he was afraid for his life and the situation had gotten worse. The appellant was unable to explain why he was unable to claim asylum for the 15 years to July 2017. I reject his evidence that he genuinely believed that if he made himself known to the UK authorities he would be returned to Bangladesh. This wholly fails to address the fact that he made himself known to the UK authorities in 2009, yet did not claim asylum at the time. Contrary to the submissions in the skeleton argument, the appellant's explanation for the huge delay in claiming asylum has been inconsistent and is implausible. In addressing the credibility of the appellant's claim to have experienced past persecution, I have considered the delay in claiming asylum and the absence of any credible explanation for this, as a factor alongside the other matters I set out above.

Prospective risk

20. Even if I accepted that the appellant was targeted at a meeting in 2001 and a false case was lodged against him at the time, I would still find that there is no reasonable degree of likelihood of him being subjected to any harm for reasons relating to his political opinion upon return to Bangladesh at this point. I have taken into account the country background evidence that there has been recent targeting of BNP leaders and supporters by the Awami League, through arrests and detention in order to tighten its grip on power – see inter alia, the Human Rights Watch report dated July 2017 and the Dhaka Tribune's report dated 4 September 2018. However, this appellant has not been involved in any political activities of any substance since 2001. His support for the BNP is now of some vintage. As he admitted during the course of his oral evidence he has not been "*doing anything*" in the UK in the last 15 years. It is therefore of little surprise that there have been no continuing threats

through family members or otherwise. Although the appellant claims that his wife's family disapprove of their marriage and would be interested in seeking retribution by using their political influence, this is based on mere speculation on his part. There is no credible evidence that they have threatened him in any manner whatsoever. When all the evidence is viewed in the round, there is no real risk that the appellant will be subjected to persecution for reasons relating to his political opinion.

Article 8

21. This was not pursued before me. If it was I would have no hesitation in concluding, having considered the public interest considerations at section 117B of the Nationality, Immigration and Asylum Act 2002, that the very strong public interest in removing the appellant (given his very poor immigration history and blatant disregard for immigration law) cannot be outweighed by the his private life or those of his family members (as the children are not "qualifying" and the family will be returned as a unit to a country the appellant and his wife are very familiar with).

Decision

22. The appeal is dismissed.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
22 October 2018