



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/05048/2018**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 7th September 2018**

**Decision & Reasons
Promulgated
On 8th October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

**MS P M
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Gayle from Elder Rahimi Solicitors (London)
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

The Appellant is a citizen of Iraq whose date of birth is recorded as 10th May 1997. She made application for international protection as a refugee but on 28th March 2018 a decision was made to refuse the application. The Appellant appealed. On 18th May 2018 her appeal was heard by Judge of the First-tier Tribunal NMK Lawrence. Judge Lawrence made favourable findings but in the mistaken belief that this was an academic exercise he did not go on to make the declaration as to whether or not the Appellant was in fact a refugee within the Convention. The judge was concerned that because the Appellant had been granted leave to remain in the United Kingdom on the basis of her

relationship with her child that he could not deal with the matter. He was wrong about that.

Not content with that decision, by notice dated 15th June 2018 the Appellant sought permission to appeal to the Upper Tribunal and on 29th June 2018 Judge Buchanan granted permission.

Both parties agreed that the judge was in error but the fact that there was some leave did not mean in respect of an international protection claim in which refugee status had been sought that the matter could not continue to resolution. I have to consider whether I can remake the case or whether it should be remitted. There are findings of fact of the First-tier Tribunal. Although the judge has made favourable findings the issue of internal relocation has not been considered.

In reality, this is an unfinished decision in which it appears to the Upper Tribunal that the judge was minded to allow the appeal but it is not sufficiently clear. It seems to me right and proper therefore to remit the matter to Judge Lawrence to finish off this matter and if necessary hear further evidence.

Decision

The appeal to the Upper Tribunal is allowed. For the avoidance of doubt, the findings of fact made by the First-tier Tribunal are preserved. The matter is remitted to the First-tier Tribunal to be heard by Judge Lawrence. If that is not practicable then further directions should be made by the Resident Judge at Hatton Cross, noting that the favourable findings are to be preserved, and I will deal with the anonymity order in the ordinary way when it comes to me.

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 8 October 2018

Deputy Upper Tribunal Judge Zucker