



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal no: PA/06784/2016

THE IMMIGRATION ACTS

At Royal Courts of Justice, Belfast
on 23.07.2018
Signed 27.07.2018

Decision & Reasons Promulgated
On 02.08.2018

Before:

Upper Tribunal Judge
John FREEMAN

Between:

[T M]

appellant

and

Secretary of State for the Home Department

respondent

Representation:

For the appellant: *Tim Jebb* (counsel, instructed by Nelson-Singleton, Dromore)

For the respondent: Mr A Govan

DETERMINATION AND REASONS

This is an appeal, by the appellant, against the decision of the First-tier Tribunal (Judge Francis Farrelly), sitting at Belfast on 14 July 2017, to dismiss an asylum appeal by a citizen of the Sudan, born 1983. The appellant said he had left that country on 18 March, and come

*NOTE: (1) no anonymity direction made at first instance will continue, unless extended by me.
(2) persons under 18 are referred to by initials, and must not be further identified.*

here by sea, with one change of ship: he arrived on 14 April 2016, and claimed asylum on the 19th, which was refused on 22 June.

2. The appellant claimed asylum on two grounds:
 - (a) he is a member of the Tunjur (or Tanjur) tribe: for the reasons given in *MM*(Darfuris) Sudan (CG) [2015] UKUT 10 (IAC), Mr Govan accepted that, if he showed this was true, his claim was made out; and
 - (b) he had been detained for taking part, although he had merely been on the scene, in student demonstrations in Khartoum, which he said had taken place on 1 February 2016: again the issue on this is credibility, in particular on the date given.
3. The appellant's case was supported on both grounds by a 'country expert' Mr Peter Verney, whose evidence, as the judge noted, had been before the Tribunal and not challenged in *MM*. Permission was given on the basis that the judge had failed to deal with his evidence properly: on ground (a) he gave a full summary of it at paragraphs 10 – 14, including Mr Verney's views on how the appellant's knowledge of the Tunjur showed he was a member of the tribe.
4. At 15, the judge said this, by way of initial conclusions on ground (a):

The respondent has made the point that the appellant is an educated person who could learn about the Tanjur. Whilst bearing in mind the low standard of proof I have not found the report from Mr Verney demonstrates the appellant's ethnicity. The reference for instance to their traditional food and the political situation is not persuasive.
5. So far as (b) is concerned, the judge said at 16 that it was most significant that Mr Verney did not comment on the issue about the appellant saying the demonstration having taken place before the information relied on by the respondent suggested that it could have done. He went on to consider the appellant's answers at interview to that point. At 18 he set out the respondent's information, and at 19 concludes

I find this country information can be relied on and does not indicate any history of protest going back to 2015. The head of the students association was not aware of this issue until April 2016.
6. At 21 the judge concludes:

.. the appellant has clearly been caught out in a lie on the chronology. Mr Verney raises this with the appellant at question 61. The appellant's answer is that there were protests about cuts to student funding rather than the sell-off of the University property and that not all the demonstrations were reported. He is clearly changing his story. In his substantive interview and statement he said the protest was about the university relocating and made no mention of student budget cuts. [Mr Verney] does not comment on this central issue.
7. Having found the appellant was not to be believed on the facts of (b), the judge took this into account on his general credibility at 22, where he went on to deal with Mr Verney's conclusions as follows:

... his report does indicate the prevalence of false claims [of Tunjur identity] and highlights the obvious signs of ethnicity, such as language or skin colour. I appreciate that Mr Verney is a

recognised 'country expert' and accepts the appellant's claimed ethnicity. I do not find the reasons advanced resolve the credibility issue about the timing of events

8. Clearly if the judge was entitled to decide (b) as he did, then he was also entitled to take his credibility findings on it into account on his decision on (a); so I shall start by dealing with (b). He was entirely correct in what he said at 21 about the change in the appellant's account between his asylum interview, and the one Mr Verney had with him on Skype: see paragraphs 34 – 36 and 61 – 63 of that.
9. The grant of permission does not exclude the other grounds put forward for the appellant. So far as ground 1 (of the renewed grounds) is concerned, it takes a point on something said by the first-tier permission judge, and not by Judge Farrelly at all. Ground 3 summarizes what had been said in the original grounds to the effect that the judge had been wrong to treat the Internet articles relied on by the respondent as reliable himself, without giving reasons for that. He is criticized for referring to them (at 16) as 'country information', on the basis that this was treating them as the equivalent of Home Office country guidance.
10. 'Country information' is not a term of art, and there is nothing in the judge's use of it to suggest that he gave the articles any higher inherent value than they were entitled to. The reasons point is set out in full in the original grounds at paragraph 14, and was not enlarged on by Mr Jebb:

While the articles are sourced, no information is provided as to the quality of those sources. For example, are they local publications?

11. Looking at the articles (E, F and G in the respondent's bundle), all three are date-lined Khartoum: E and F are from the web-site of Radio Dabanga, which may reasonably be assumed from the text of F (paragraph 4: "Yesterday several students told Radio Dabanga ...") to be a local station. G is from the web-site of an all-African organization, though it credits the copyright to 'SudaNow (Khartoum)'. The all-African date on the download of G is 22 June 2016, so the statement that "... the university unrest [*specifically about the planned selling-off of the buildings*] has started three weeks ago ..." does not give a specific date for that.
12. However E (dated 12 April) and F (28 April) do both give specific dates for the demonstrations about the sell-off. E refers to one on Monday 11 April, and goes on to quote the head of the Darfur Students Association at the university as saying they found out about it 'last Wednesday', which in context must mean on 6 April. While F refers to protests on this point starting on the 13th, followed by a strike on the 18th, there were clearly a series of continuing demonstrations about the sell-off, which, if the student leader was correctly quoted, could not have happened before 6 April 2016. That directly contradicted what the appellant had said at his interview about the demonstration over which he was arrested taking place on 1 February, followed by
13. While Mr Verney, as the judge noted, referred to continuing demonstrations starting well before this, he was fully aware (see his 62) of the specific point made by the respondent, and has nothing to say about it, or the articles, of his own. It may reasonably be assumed that if

he did, he would have mentioned it: failing that, the appellant's solicitors could have asked him about it.

14. Given the information about sources contained in the articles themselves (see 11), and the lack of any comment on them, or on their contents, by Mr Verney, it seems to me that the judge was fully entitled to deal with question (a) (was the appellant a Tunjur?), on the basis that his credibility had been seriously damaged by the evidence on (b). He rightly made clear at 20 that he had "... looked at all the evidence in the round before reaching a conclusion", so could not be criticized on that point.
15. Returning to point (a), there had been detailed criticism of the judge on this in the original grounds, which Mr Jebb enlarged on before me. Mr Verney's status as an expert witness is not in doubt, and was specifically accepted by the judge. The criticism of the judge's treatment of his evidence is centred on what he said, or did not say about it at paragraph 15 (see 4 above).
16. What the appellant had told Mr Verney about the Tunjur is summarized at his paragraph 223: "I asked him about traditional food, tribal relations [and the political situation in Khartoum University] and was satisfied with his answers". As Mr Jebb acknowledged before me, if that general conclusion had been all, then the judge's paragraph 15 could not have been criticized as a treatment of it.
17. However, it was not: the appellant had given specific answers to specific questions, to which Mr Jebb had referred the judge, who dealt with them in general terms at 14, by saying that Mr Verney had given correct answers about the Tunjur, their culture and traditions, which the respondent had acknowledged. At 84 the appellant had named traditional places of the Tunjur, which at 85 Mr Verney had confirmed as 'correct and significant'; at 89 – 96 and 100 – 101 he had named prominent individuals, with the same result.
18. While Mr Verney had said a good deal (see for example at 222, 224 and 225, and his general explanations of his own approach at 206 - 211) about the way in which the appellant had answered his questions, dealt with by the judge at 14 as "He refers to his demeanour", the really significant point in his treatment of the appellant's evidence, in my view, was his exploration of the main point taken by the respondent on this aspect of his case, which was that the information he had given was available, to an educated person such as the appellant, in the public domain.
19. At 104 and 107 Mr Verney, whose expertise appears to qualify him to give an opinion on the point, confirms that the information the appellant had given him would not be available in universities in the Sudan. He goes on:

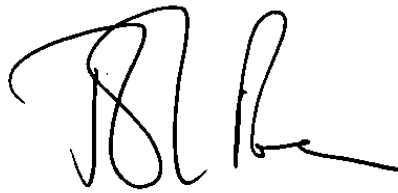
This information is obscure and highly localised. It is more likely to be passed on by word of mouth through Tunjur families than by academic research – and there is no interest among Arab scholars in research into the non-Arab tribes of Sudan.
20. It seems to me that the judge did need to deal with this point in a more detailed way than he did at 15. There were points (see for example at Mr Verney's 73 – 74) on which the correctness of the appellant's answers depended on his assertion that he had not said what he was recorded as saying at interview. On the other hand, he had given mainly correct

answers throughout, which in Mr Verney's opinion he could not have got from published sources, and this needed either to be explained, or at least weighed against the judge's entirely justifiable findings on (b).

21. I see no reason to interfere with the judge's findings on (b); but what he needed to do was first to recognize that, whatever the appellant's credibility or otherwise on that point, he might be telling the truth as to whether he was a Tunjur, and deal specifically with Mr Verney's reasons for accepting that. For those reasons the judge's decision on (a) is set aside, with a direction for him to continue the hearing on it, on the basis I have just set out.

Appeal allowed: first-tier decision set aside

Direction for renewed hearing at Belfast, before Judge Farrelly

A handwritten signature in black ink, appearing to be 'J. Farrelly', written in a cursive style.

(a judge of the Upper Tribunal):