



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

Appeal Number: PA/07205/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 25 September 2018**

**Decision & Reasons
Promulgated
On 12 October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

**KG
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms. A. Nizami, Counsel instructed by Wilsons Solicitors

For the Respondent: Ms. A. Fijiwala, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Cassel, promulgated on 13 March 2018, in which he dismissed the Appellant's appeal against the Respondent's decision to refuse a grant of asylum.
2. I have made an anonymity direction continuing that made in the First-tier Tribunal.

3. Permission to appeal was granted as follows.

“It is arguable, as set out within the grounds of appeal, that the First-tier Tribunal Judge has materially erred in failing to consider whether or not the appellant came from an area where Coptic Christians will face a real risk of persecution or ill treatment contrary to article 3 as set out within paragraph 2 of the head note of MS (Coptic Christians) Egypt CG [2013] UKUT 00611 (IAC). It is further arguable that the Judge has failed to properly take account of the contents of the expert report from Professor Joffe regarding the viability of internal relocation. It is further arguable the Judge has failed to make any findings in respect of the evidence from the Egyptian lawyer Mr A, as to how he came to obtain the documents from the police/court records system.”

4. Following discussion between myself and the representatives, I stated that I found the decision involved the making of material errors of law. I set the decision aside and remitted it to the First-tier Tribunal to be remade.

Error of Law

5. Ms. Fijiwala stated at the hearing that her submissions were based on the issue of internal relocation, with reference to paragraph (2) of the headnote to MS (Coptic Christians) Egypt CG. She accepted that, if I were to find an error of law in relation to the findings of fact, in particular the credibility findings, she could not defend the decision, and would not be able to argue internal relocation on the basis of the findings of the First-tier Tribunal.
6. The Judge’s conclusions are set out at [24] to [39], but the findings do not start until [32], and consist of just two paragraphs before the Judge turns to consider section 8 of the 2004 Act from [34] to [36]. He concludes from [37] to [39] that the Appellant’s claim fails on asylum and humanitarian protection grounds.
7. Within [32] and [33] there is no consideration of the Appellant’s account of his treatment in Egypt prior to coming to the United Kingdom with reference to any of the background evidence, including the expert report. Rather in [32] and [33] the Judge finds that the Appellant’s account lacks credibility on account of the finding that he was evasive in his responses first regarding contact with his father [32], and secondly regarding how he came into possession of the originals of the documents [33]. There is no consideration of the Appellant’s account of what happened to him in Egypt prior to coming to the United Kingdom in 2016, nor the expert report which corroborated his claim. I find that the Judge’s failure to consider the Appellant’s account with reference to the evidence before him is a material error of law.
8. At [38] the Judge simply states in one sentence that he does not believe the Appellant’s account of his treatment in his home area, nor that he has

been sentenced in absentia. However, aside from his finding that the Appellant was not a credible witness based on the two issues set out at [32] and [33], he has not given any reasons for this finding. This is clearly of relevance to consideration of the case of MS (Coptic Christians) Egypt CG, in particular headnote (2) and whether or not the Appellant would be at real risk of persecution and ill-treatment on account of where he came from. There has been no detailed consideration of headnote (2). Irrespective of the Judge's findings in relation to the Appellant's conviction in absentia, which is relevant for consideration of paragraph (3) of the headnote to MS (Coptic Christians) Egypt CG, there is a failure to consider the relevance of where he comes from with reference to paragraph (2). I find that this is a material error of law.

9. Further, the finding at [38] that he could internally relocate is not reasoned, in particular there is no consideration of Professor Joffe's report. The expert report is relevant both to the Appellant's account of what happened in his home area, and also to internal relocation. There is reference to it at [29], but this is only with reference to one aspect of the report. The Judge does not find that the expert report cannot be relied on, but there is no proper consideration of it. I find that the failure to consider the expert report when finding that the Appellant could internally relocate is a material error of law.
10. I have taken account of the Practice Statement dated 10 February 2010, paragraph 7.2. This contemplates that an appeal may be remitted to the First-tier Tribunal where the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for the party's case to be put to and considered by the First-tier Tribunal. Given the nature and extent of the fact-finding necessary to enable this appeal to be remade, having regard to the overriding objective, I find that it is appropriate to remit this case to the First-tier Tribunal.

Decision

11. The decision of the First-tier Tribunal involves the making of material errors of law and I set the decision aside.
12. The appeal is remitted to the First-tier Tribunal to be re-heard.
13. The appeal is not to be heard by Judge Cassel.

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

Date 6 October 2018

Deputy Upper Tribunal Judge Chamberlain