



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

Appeal Number: PA/07802/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 29th October 2018**

**Decision and Reasons
Promulgated
On 31st October 2018**

**Before
UPPER TRIBUNAL JUDGE RIMINGTON**

**Between
THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and
Miss S.J.
(AKA A.F.N.)**

(Anonymity Direction Made)

Respondent

Representation:

For the Appellant: Mr P Deller, Senior Home Office Presenting Officer

For the Respondent: Ms A Patyna, instructed by Camden Community Law Centre

DECISION AND REASONS

1. The application for permission to appeal was made by the Secretary of State but nonetheless, I shall refer to the parties as they were described before the First-tier Tribunal.
2. The appellant is a national of Ethiopia and her appeal was allowed by First-tier Tribunal Judge N M Paul's decision, promulgated on 10th August 2018, against the decision of the Secretary of State dated 21st May 2018.
3. The appeal was allowed on asylum grounds based on the appellant's sur place political activity and association or likely perceived association with the Oromo Liberation Front (the 'OLF').
4. The judge found as follows:

'20. Even if it were the case that her intention of being involved with these activities was entirely fraudulent (in the sense that she was only seeking to do it to bolster her claim), the fact is that if those activities have, in the eyes of the relevant authorities, flagged her up as a potential activist, then she is at risk.

21. I have read with care the decision of the Deputy Upper Tribunal Judge in 2012 which, in my view, was an exhaustive and very comprehensive analysis of the appellant's case. Significant adverse credibility findings were made. In my view, it is of no help to Dr Trueman (who is not a judge of fact but a commentator in relation to general matters) to seek to undermine that Tribunal's decision by attacking the basis on which it was reached. The appeal was in 2012, and his first report was prepared after that in December 2013. I note that no effort was made to seek to appeal the Upper Tribunal decision in 2012, or 2013, on the basis that it was flawed. In my view, the findings were clear in relation to the appellant's credibility, which means that she has not told the truth about her age; and/or the circumstances in which she left Ethiopia. That judgment clearly must be read carefully alongside this decision.

22. In relation to the sur place activities, I found the position to be rather different. Although the appellant was not cross-examined in any detail about the nature of her support, the fact is that the photographic evidence, along with the letter of support, provide a sufficient basis for showing that she has been actively involved and (whether deliberately or otherwise) her profile by reference to whom she has been photographed with, and where she has been photographed, give rise to the fact that those paying attention to these matters would have identified her as a potential activist. Although the position in Ethiopia has recently changed considerably, the country guidance still stands until it is altered, and it must (on that basis) follow that OLF

sympathisers and people who have raised their profile in that way, must be at risk'.

Application for Permission to Appeal

5. The application for permission by the Secretary of State contended that:
 - (i) the judge had failed to provide any adequate reasons for why they had departed from the upper Tribunal's findings in 2012. The Upper Tribunal previously found that the appellant's sur place activities OLF would not place her at risk on return. The findings cited above at 22 provided no adequate, evidence-based reasons for why the new evidence led to a departure from the previous findings of the upper Tribunal
 - (ii) it was not known why the judge concluded that the appellant's activities would now come to the attention of the Ethiopian authorities.
 - (iii) reliance was placed on the findings in **Budhathoki (reasons for decisions)** [2014] UKUT 00341: judges needed to resolve the key conflicts in evidence and explain in clear and brief terms their reasons for preferring one case to the other so parties could understand why they had lost.
6. Permission to appeal was granted by Judge Chohan on 6th September 2018 on the basis that the judge may have given inadequate reasons as they were confined to one paragraph.
7. A very helpful Rule 24 response was provided by the appellant's representative Ms Patyna.
8. At the hearing, Mr Deller confirmed that the challenge by the Secretary of State was not sustainable and that he no longer maintained the challenge.

Conclusions

9. As pointed out there is no requirement for judges to present or analyse every piece of evidence in a case. The judge had full regard to the findings of the Secretary of State's case at [5] of the decision and acknowledged the submissions made at [11] to [12].
10. The judge's decision was encapsulated in the paragraphs I have cited above.
11. There were extensive media posts and photographs in the bundle supporting the appellant's participation in the OLF and associated demonstrations. Reference was also made to letters of support. This evidence, the judge accepted, showed the appellant had been actively involved in the OLF. The judge also referred to 'who' she had been photographed with and 'where'. That was an important finding. The judge

identified the relevant country guidance **MB (OLF and MTA, risk) (Ethiopia)** [2007] UKAIT 30, and that his findings needed to be seen in that context.

12. The judge's conclusions were in line with the evidence of Dr Trueman, who relied on the evidence of the regional security expert Gunter Schroder that '*a central electronic database of suspected opposition activists is kept in Ethiopia*' and '*this is accessible to security men who screen the arrivals at Addis Ababa airport*'. Although I raised the point, no specific challenge was made to that evidence in the grounds of application for permission.

13. As set out in **Shizad (sufficiency of reasons: set aside)** [2013] UKUT 00085 (IAC)

'Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge'.

14. In the light of the grounds of application for permission as framed, and grant, I find that Mr Deller was wholly correct in not maintaining the challenge.

15. For the reasons given, I find there is no material error of law in the judge's decision which incorporated adequately reasoned findings for dismissing the appellant's claim. The First-Tier Tribunal decision will stand.

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 Helen Rimington
October 2018

Date 29th

Upper Tribunal Judge Rimington