



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

Appeal Number: PA/09355/2016

THE IMMIGRATION ACTS

Heard at Field House
On: 14 September 2018

Decision and reasons Promulgated
On: 03 October 2018

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**MOHAMMAD [K]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr T Chang of Counsel

For the respondent: Mr L Tarlow, Senior Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Afghanistan, appealed against the decision of the respondent dated 16 August 2016, refusing to grant the appellant asylum and humanitarian protection in the United Kingdom. First-tier Tribunal Judge Carrol dismissed the appellant's appeal in a decision dated 5 April 2017
2. Permission to appeal was granted by First- tier Tribunal Judge Chohan on 16 August 2018 stating it is arguable that the Judge did not treat the

appellant as a vulnerable witness given that he was 15 years of age at the date of hearing.

3. The hearing there was no dispute that the appellant was 15 years old at the date of hearing. There was also no dispute that the appellant's credibility was one of the main issues in the appeal. Therefore, it was incumbent on the Judge to consider that the appellant was a vulnerable witness and to apply the Joint Residential Guidance Note 2 of the 2010 guidance.
4. It is clear from the decision that the First-tier Tribunal Judge other than mentioning appellant's age at the beginning of the decision, made no further reference to his age when determining his credibility.
5. At the hearing, Mr Tarlow was not able to point out one paragraph in the decision of the First-tier Tribunal Judge where the Judge indicated that he was aware that he was evaluating the evidence of a vulnerable witness.
6. As a consequence, the decision is not safe. I find that there has been a material error of law in the decision as the Judge as he has failed to take into account the appellant's age when considering the evidence in the appellant's credibility. Therefore, as it stands the decision is not safe and findings of fact need to be made and consideration being given to the fact that the appellant was a child when the events occurred.
7. In the circumstances, I direct that the appeal be placed before any First-tier Tribunal Judge apart from first-tier Tribunal Judge Carroll for the appeal to be heard de novo and the Joint Residential Guidance be applied.

Decision

Appeal remitted to the First-tier Tribunal

Signed by

A Deputy Judge of the Upper Tribunal

.....

Ms S Chana

Dated 26th day of September 2018