



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

Appeal Number: HU/04244/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 5th July 2019**

**Decision & Reasons Promulgated
On 12th July 2019**

Before

**UPPER TRIBUNAL JUDGE RIMINGTON
and
UPPER TRIBUNAL JUDGE MANDALIA**

Between

**MR MD RASHADUL HASSAN RAZU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Malik, Kuddus Solicitors

For the Respondent: Ms A Everett, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Bangladesh. He arrived in the UK in August 2006 as a student with leave to enter until 31st October 2009. He was granted further leave to remain as a student until 29th February 2012. On 27th August 2011, the appellant was married to an EEA national in a proxy marriage in Ghana, and on 29th August 2012 he was granted an EEA

Residence Card. The appellant separated from his wife in March 2015. On 22nd June 2017 he made an application for indefinite leave to remain in the UK. The application was refused by the respondent for the reasons set out in a decision dated 25th January 2018. The appellant's appeal against that decision was dismissed by FtT Judge Kaler for the reasons set out in a decision promulgated on 26th March 2019. It is that decision that is the subject of the appeal before us.

2. The appellant accepts that he does not qualify for a right to reside in the UK under the Immigration (European Economic Area) Regulations. He also accepts that he cannot satisfy the requirements for leave to remain in the UK on family life grounds, as set out in Appendix FM of the immigration rules. The appellant relies upon the private life that he has established in the UK.
3. The evidence received by the Tribunal from the appellant is recorded at paragraph [5] of the Judge's decision:

“... He said his marriage fell apart and he was to blame for that; he had behaved badly by drinking alcohol and taking drugs. He not (*sic*) applied for a divorce as he had hoped to reconcile with his wife but it was too late. He confirmed that he had parents and siblings in Bangladesh. His parents lived in their own home, were aged over 60 and his father, who used to work for the United Nations, has retired. He did not want to be a burden upon them. He had no experience of working in Bangladesh and he did not have enough money to set up his own business. He had not been there for 12 years. He would find it difficult to get a job and Bangladesh had a high crime rate. He had a diploma in Business Administration and he was managing the restaurant where he was currently working. He relies on the private life he has established in the UK.

4. At paragraphs [9] and [10] of the decision, the FtT Judge summarises the claim as follows:

“9. The facts are that the appellant has been in the UK since 2009 and has not returned to Bangladesh since. He has always been here with leave, although it has not been shown that his spouse was exercising treaty rights since 2011, when the couple married. They separated in 2015 and so only lived together for 4 years at most. Leave was not curtailed and the circumstances were not drawn to the attention of the respondent.

10. The appellant has not established family life. He has established private life; he works. I do not know of any property or assets that he owns. He talks about his “meaningful relationships” here but provides no details of them. He does not have a partner or children. I accept he probably has friends and work colleagues.”

5. At paragraph [11], the FtT Judge sets out paragraph 276ADE(1) of the immigration rules and at paragraph [12], she states; *“The application does not meet the requirements of sub paragraphs (iii) –(v). The Appellant argues there are “very significant obstacles” to his integration back to India.”*
6. The findings and conclusions of the FtT Judge are set out at paragraphs [13] to [21] of the decision. Having considered the evidence, the FtT Judge found, at [15], that *“There are no “very significant obstacles to the applicant’s integration” to Bangladesh. The conditions in the immigration rules have not been met.”* Having established that the appellant cannot satisfy the requirements of paragraph 276ADE(1) of the immigration rules, the Judge addressed the Article 8 claim outside the rules. The Judge found that the appellant has established some form of private life. In considering whether the decision to refuse leave to remain is proportionate, the FtT Judge had regard to the public interest considerations set out in s117B of The Nationality, Immigration and Asylum Act 2002 and concluded, at [21], that the refusal is proportionate to the legitimate aim.

The appeal to the Upper Tribunal

7. The appellant claims that the FtT Judge made factual errors that are fundamental, and overlooked important evidence relevant to the question of whether there are “very significant obstacles” to his integration back to Bangladesh. The appellant identifies two factual errors. First, at paragraph [12] of the decision, the Judge proceeds upon the premise that the appellant claims there are very significant obstacles to his integration back to “India”, when in fact, the appellant is a national of Bangladesh. Second, at paragraphs [2] and [9], the Judge refers to the appellant having

been in the UK since 2009, when in fact, the appellant entered the UK in August 2006. The appellant claims that in reaching the decision, the FtT Judge overlooked the appellant's evidence that his mother is a housewife, and his father is retired. He claims that the Judge also overlooked the evidence that his parents' only source of income is from state pensions, which is barely enough to cover their own expenses, and failed to take into account the very limited contact that the appellant has with his family in Bangladesh.

8. Permission to appeal was granted by FtT Judge Hollingworth on 21st May 2019. The matter comes before us to determine whether the decision of the FtT Judge contains a material error of law, and if so, to remake the decision.
9. At the conclusion of the hearing before us we informed the parties that we are not satisfied that there is a material error of law in the decision of the FtT Judge, and that we dismiss the appeal. We informed the parties that our written reasons for doing so will follow. We now provide our reasons.
10. Taking his lead from the observations made by FtT Judge Hollingworth when permission to appeal was granted, Mr Malik submits that it is unclear whether the Judge has exclusively considered the totality of the factors relevant to integration in Bangladesh, in contradistinction to any factors appertaining to integration in India, and that in reaching his decision, the FtT Judge has not taken full account of the chronology. Mr Malik submits that the FtT Judge proceeds upon the premise that the appellant has established a private life in the UK, over a period of almost 10 years, since August 2009, whereas the appellant has been in the United Kingdom and established a private life over a period of almost 13 years.
11. Although it is right to note that the FtT Judge refers, at paragraph [12], to the appellant claiming that there are very significant obstacles to his reintegration to India, there is no doubt in our minds that the Judge addressed whether there would be very significant obstacles to the

applicant's integration into Bangladesh. Throughout the decision, at paragraphs [2], [5], [6], [9], [13], and [14], when referring to the background facts, the evidence, and the submissions, the FtT Judge refers to "Bangladesh". The summary of the appellant's claim as set out in paragraph [5] of the decision correctly refers to the connections that the appellant has to Bangladesh. Importantly in her final analysis, at paragraph [15], the Judge states "*There are no "very significant obstacles to the applicant's integration" to Bangladesh...*". The reference in paragraph [12] to "India", is in our judgement, immaterial.

12. Similarly, the reference by the Judge to the appellant having been in the UK since 2009, is in our judgement, immaterial. Paragraph 276ADE(1) of the rules recognises the significant private life that an individual who has continuously lived in the UK for at least 20 years (discounting any period of imprisonment), is likely to have established. There is no doubt here that on any view, the requirement at paragraph 276ADE(1)(iii) cannot be met by the appellant. The focus under 276ADE(1)(vi) of the rules that is relied upon by the appellant, is whether there would be very significant obstacles to the appellant's integration into Bangladesh if he is required to leave the UK. Whether the appellant arrived in the United Kingdom in 2006 or 2009, does not assist in the determination of that issue. It was open to the FtT Judge to conclude, having considered all of the evidence, that there are no very significant obstacles to the appellant's integration to Bangladesh.
13. The claim made by the appellant that the FtT Judge overlooked important evidence is simply not borne out by a careful reading of the Judge's decision. At paragraph [5] of the decision, the Judge refers to the appellant's parents and siblings in Bangladesh, and noted that the appellant's parents are aged over 60, and that his father is now retired. The Judge clearly considered the appellant's claim that he has no experience of working in Bangladesh, and he did not have enough money to set up his own business. The Judge noted that the appellant is in contact with his family in Bangladesh. Mr Malik submits that the appellant

only speaks to his sister very occasionally. That cannot in any way undermine the finding by the FtT Judge that the appellant has family in Bangladesh. In any event, that submission is contrary to the information provided by the appellant's solicitors in the covering letter, dated 22 June 2017, to the application. In that letter it is said that their client "... *does not have much family support network or friends in Bangladesh other than his parents and sister.*".

14. It is now well established that the obligation on a Tribunal is to give reasons in sufficient detail to show the principles on which the Tribunal has acted and the reasons that have led to the decision. Such reasons need not be elaborate, and do not need to address every argument or every factor which weighed in the decision. If a Tribunal has not expressly addressed an argument, but if there are grounds on which the argument could properly have been rejected, it should be assumed that the Tribunal acted on such grounds. It is sufficient that the critical reasons to the decision are recorded.
15. It is clear in our judgement that the FtT Judge considered the private life claim advanced by the appellant. It is difficult to identify any exceptional circumstances capable of establishing a breach of Article 8, where the Judge has properly found that the requirements of the rules cannot be met by the appellant. The Judge rejected the appellant's claim for the reasons set out in the decision, and in our judgement it was open to her to do so. The claim that the FtT Judge overlooked material evidence is nothing more than a disagreement with findings that were properly made, and open to the Judge.
16. It follows that in our judgment, the decision of the FtT Judge is not infected by a material error of law and the appeal is dismissed.

Notice of Decision

17. The appeal is dismissed and the decision of FtT Judge Kaler stands.

Signed

Date

5th July 2019

Upper Tribunal Judge Mandalia

We have dismissed the appeal and there can be no fee award.