



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

Appeal Number: PA/00865/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 February 2019**

**Decision & Reasons Promulgated  
On 28 February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD**

**Between**

**K A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr P. Bonavero, Counsel.

For the Respondent: Mr N. Bramble, Home Office Presenting Officer.

**DECISION AND REASONS**

1. The appellant is a citizen of Albania who sought international protection. Her application was refused and she appealed. Following a hearing, and in a decision promulgated on 23 August 2018, Judge of the First-tier Tribunal Gurung-Thapa dismissed the Appellant's appeal. She found her not credible.
2. The Appellant sought permission to appeal. It was initially refused but a subsequent application to the Upper Tribunal was successful. Upper Tribunal Judge Chalkley granted permission in 3 December 2018. His reasons for so doing were: -

*“1. I think that the first challenge is properly arguable but I do not seek to limit the scope of the Upper Tribunal’s consideration of the decision.”*

3. Thus, the appeal came before me today.
4. At the hearing I asked both representatives to deal firstly with ground one as were I to find it disclosed a material error of law consideration of the other grounds would become a redundant exercise.
5. Mr Bonavero referred me to expert evidence of Dr Korovilas. Within his report he stated that it was “entirely plausibly [sic]” that the Appellant would not know various details about her family’s blood feud. That evidence has not been taken into account by the Judge who has failed to engage with it when considering the issue of the Appellant’s credibility. Further the Judge had failed to recognise the plausible explanation given by the Appellant for not giving the names of the Selita family during her interview. Prior to that SEF interview the Appellant had the blood feud certificate naming the Selita family in her possession. The Judge has failed to address how the Appellant’s young age at the time of her brother being killed affected the assessment of plausibility of her account. Some of the Judge’s conclusions are based on speculation. Finally, in failing to put any weight whatsoever on the blood feud certificate the Judge has incorrectly approached that document in the context of the guidance within **Tanveer Ahmed v SSHD [2002] UKIAT 00439**.
6. Mr Bramble argued that at Paragraphs 27 to 29 the Judge had made adverse credibility findings that she was entitled to on the basis of the evidence. The Judge has set the issue of the certificate into the context of the totality of the evidence and cannot be criticised for so doing.
7. I am persuaded that the Judge has materially erred for all the reasons set out in ground one. Her approach to the assessment of credibility is erroneous and she has at times speculated. In particular it was necessary to take into account and engage with the evidence of Dr Korovilas. This the Judge has failed to do.
8. Given my findings in relation to the first ground consideration of the others is a redundant exercise. This is an appeal which will have to be reheard de novo.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge Gurung-Thapa.

### **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 their 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  
2019

Date: 25 February

Deputy Upper Tribunal Judge Appleyard