



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02856/2019

THE IMMIGRATION ACTS

Heard at Bradford
On 16 August 2019

Decision & Reasons Promulgated
On 18 September 2019

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

G

(ANONYMITY DIRECTED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel (counsel)

For the Respondent: Mr A McVeety (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal, from a decision of the First-tier Tribunal (the tribunal) which it sent to the parties on 28 May 2019 following a hearing of 30 April 2019. The tribunal dismissed the claimant's appeal against a decision of the Secretary of State, of 13 March 2019, refusing to grant her international protection.
2. The tribunal did not direct anonymity. However, although nothing was said about that one way or the other before me, I have decided to do so. That is because the claimant's account, if it turns out to be true, contains some sensitive material regarding allegations of sexual assault and rape.
3. This case came before me so that, permission to appeal to the Upper Tribunal having been granted, it could be decided whether the tribunal had erred in law and, if it had, what should flow from that. Representation was as stated above and I am grateful to each representative. The hearing was, in fact, a very short one indeed because there was agreement between the parties that the tribunal had, indeed, erred in law. As to that, Mr McVeety accepted that the tribunal had made an error of fact in erroneously thinking that the claimant had asserted that a person I will simply refer to as Y, was her brother as opposed to being a more distant relative. As a result of that mistake the tribunal drew an adverse inference from the fact that Y had not been named on a civil registry document. Y would have been named on that document had he been the claimant's brother. It is clear from what the tribunal had to say at paragraph 10 of its written reasons that, in consequence of the above, it regarded the civil registry document as being unreliable and that that meant, followed its reasoning, it could not be satisfied that the claimant's father was deceased as the document purported to show and as she had claimed. It considered that to be 'significantly damaging to the appellant's credibility'. It also thought, in effect, that if the claimant's father was not deceased that significantly undermined much of her claim.
4. So, as is agreed between the parties, the tribunal's mistake of fact led it to make an adverse finding with respect to the credibility of part of the claimant's account in circumstances where it might otherwise, but for the error, not have done so. In those circumstances that does translate into an error of law. Accordingly, I have decided, effectively by consent, to set aside the tribunal's decision.
5. The claimant had raised a number of other grounds of appeal to the Upper Tribunal when seeking permission. However, it is not now necessary for me to deal with them. Any other errors that the tribunal might have made will be subsumed by the fresh hearing which will now follow. There will be a fresh hearing because I have decided, as both parties urged me to, to remit for a complete re-hearing of the appeal.
6. My having decided to remit I am statutorily obliged to issue directions for the remaking of the decision. However, I need not be overly detailed or prescriptive about that. I simply direct that there will be a complete re-hearing of the appeal which will

take place before a different Judge to the one who had previously decided the appeal. Any other directions may be left to the tribunal to decide for itself.

7. This appeal to the Upper Tribunal then is allowed on the basis and to the extent explained above.

Decision

The decision of the First-tier Tribunal involved the making of an error of law and is set aside. The case is remitted to the First-tier Tribunal so that the decision may be remade.

The claimant is granted anonymity. Accordingly, no report of these proceedings shall name or otherwise identify her or any member of her family. That applies to all parties to the proceedings. Failure to comply may lead to contempt of court proceedings.

Signed

**M R Hemingway
Judge of the Upper Tribunal**

Dated

10 September 2019