



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

Appeal Number: PA/03455/2016

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On May 3, 2019**

**Decision & Reasons
Promulgated
On 16 May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR TAJRUL ISLAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bashir, Legal Representative

For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a Bangladeshi national, arrived in the United Kingdom on a visit visa on April 12, 2012. It is not disputed that he remained in this country unlawfully after the expiry of his leave until he was detained by

Immigration Officers on September 9, 2015. He was subsequently released and he made a claim for asylum on November 2, 2015 but this was refused by the respondent on March 25, 2016.

2. The appellant appealed this decision on April 6, 2016 under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 and his appeal came before Judge of the First-tier Tribunal Bannerman on December 23, 2016. In a decision promulgated on January 10, 2017 he dismissed the appellant's appeal on all grounds.
3. The appellant appealed this decision and Upper Tribunal Judge Southern granted permission to appeal on May 12, 2017 finding there were arguable errors in law in the way the Judge dealt with both the protection and Article 8 claims.
4. No anonymity direction is made.

SUBMISSIONS

5. Mr Bashir argued that the Judge had failed to deal with the Article 8 claim that had been raised in the grounds of appeal and thereafter mentioned in the appellant's witness statement. He referred the Tribunal to paragraphs 5 and 6 of that statement. He submitted that the Judge should have dealt with the appellant's Article 8 claim in more detail than he did in paragraph [55] of his decision. The second ground advanced was that the Judge had failed to give adequate reasons for rejecting the appellant's protection claim. Whilst it was accepted the reasons had been given, he argued that these reasons did not explain why the appeal had been rejected.
6. Mr Tan opposed the application and submitted that there was nothing in the appellant's witness statement that identified any insurmountable. With regard to the grounds of appeal in relation to the protection issue, Mr Tan accepted that the reasons given by the Judge were brief. However, he submitted that the Judge had addressed all the relevant issues in his decision and in particular had addressed the arrest warrant documentation, concerns over the actual content of the documentation, the appellant's lack of knowledge of the BNP Party and his level of involvement within that party, the absence of any sur place activities and finally the delayed claim for asylum.
7. Mr Bashir reiterated that there was an issue of fairness and that in his submission the Judge had acted unfairly by making the findings or by providing few findings in his decision.

FINDINGS ON ERROR IN LAW

8. This was a protection claim presented a number of years after the appellant had arrived in the United Kingdom. His claim was initially considered by the respondent following his interview and having had his application refused by the respondent, the appellant exercised his right of appeal to the Tribunal.

9. The appellant presented limited which consisted of a two-page witness statement, a newspaper article and some evidence relating to the arrest warrants and other documents from an advocate. The Judge also had the respondent's bundle.
10. The challenge to the protection decision was that the Judge did not give adequate reasons, and this is a factor identified as an arguable error of law by Upper Tribunal Judge Southern in his grant of permission.
11. Having considered the paperwork in this case and submissions advanced, I find that although the reasons given in the decision were brief, nevertheless the Judge considered the relevant issues in respect of the protection claim. The Judge had to consider the arrest warrants and contrary to submissions advanced by Mr Bashir the Judge did consider those documents and gave reasons why he felt, in the round, no weight could be attached to them.
12. He had identified the warrants as photocopied documents and then went on to consider other aspects of his involvement in Bangladesh with the authorities. He noted the claim regarding his involvement with the BNP but concluded that he was a low-level member of the BNP placing weight on the contents of the appellant's witness statement.
13. Importantly, the Judge noted that both arrest warrants were for events that occurred after the appellant had left the country and the Judge concluded that these documents could not be relied on. The Judge thereafter went on to consider other issues in the case and in particular the vagueness of the appellant's evidence, the delay occasioned by his failure to claim asylum at the first available opportunity and a lack of sur place activity carried out by the appellant.
14. Whilst the Judge accepted it was not a prerequisite for there to be sur place activity, the Judge concluded that the lack of involvement in this country undermined his credibility to have been so heavily involved with political activity in Bangladesh.
15. In the circumstances, I accept Mr Tan's submission that the Judge addressed the relevant issues in the case and find there is no error of law on the protection ground of appeal.
16. The second ground of appeal concerned the Judge's approach to the Article 8 claim. I was hampered by the absence of a court Record of Proceedings. There had been no request for the court record to be obtained from the Judge and there was no Record of Proceedings available from Mr Bashir which supported a submission that Article 8 had been argued before the Judge.
17. The statement provided by the appellant was extremely brief in nature and simply stated that he had established a family and private life in the United Kingdom given the time he had spent in this country and that he

did not pose any risk to the authorities, did not have any convictions, did not suffer from any infectious diseases and he would not affect the rights and freedoms of others by remaining in the United Kingdom.

18. Against that background the Judge recorded at paragraph [55] that no case had been put forward in respect of Article 8. Whilst I accept the grounds of appeal do raise Article 8, I have to look at the material to see whether or not the failure by the Judge to specifically address article 8 would be capable of amounting to an error in law.
19. There was nothing in the grounds of appeal of any nature that assisted the Judge and the appellant's witness statement did not assist the Judge. There was no evidence that what was recorded in paragraph [55] was not what happened at the hearing and that no argument was advanced at the hearing. The Judge concluded at the end of paragraph [55] that "against the evidence provided to me he could not have succeeded against the Immigration Rules or ECHR Article 8 tests laid down".
20. I find the Judge's finding was open to him and whilst the Judge has not dealt with the Article 8 in any substance, his conclusion was the only outcome available to the Judge based on the information that was placed before the Tribunal.
21. In the circumstances, the Judge's failure to go into detail in this matter was not material as there was nothing before the Judge which would enable him to reach an alternative conclusion.
22. For those reasons I do not find there is an error of law.

NOTICE OF DECISION

23. I uphold the original decision and I do not set aside the Judge's decision.

Signed

Date

14 May 2019



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

There is no fee award made because the original decision has been upheld.

Signed

Date

14 May 2019

A handwritten signature in black ink, appearing to read "SPAL" with a flourish underneath.

Deputy Upper Tribunal Judge Alis