



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07626/2018

THE IMMIGRATION ACTS

Heard at Bradford
On 16 August 2019

Decision & Reasons Promulgated
On 11 September 2019

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

**Sonadan [B]
(ANONYMITY NOT DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M K Noor, (Solicitor)

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, brought with the permission of a Judge of the Upper Tribunal, from a decision of the First-tier Tribunal (the tribunal) which it made on 27 July 2018, following a hearing of 19 July 2018, and which it sent to the parties on 31 July 2018. The tribunal decided to dismiss the claimant's appeal from the Secretary of State's decision of 17 April 2017 refusing to grant her international protection.

2. By way of background, the claimant, although she had once travelled under a passport containing a different date of birth and indeed a different name, was accepted by the Secretary of State as having been born on 1 March 1964. She is, it is also not disputed, a national of

Bangladesh. She entered the United Kingdom (UK) on 7 August 2011 by official channels, in possession of a UK visit visa, but with a false passport. It is recorded that she made her claim for international protection on 18 October 2017. In making that claim she asserted that she had worked for voluntary organisations in Bangladesh and had occupied the position of “Chairman” of the Bangladeshi National Party (BNP) Women’s Group, a position which she took up, albeit she says unwillingly, in 2004. She was also a member of a village committee and, as a result of that involvement and her duties, she was required to and did, declare that an individual called Mohammed Miah could no longer serve on the committee because he had been convicted of a crime. She claims that he was aggrieved and that two of his associates assaulted her, were arrested by the police and were subsequently convicted and sentenced to six months imprisonment. She asserts that, in 2010, she received threats from those three persons (Mr Miah and the two associates) and that, to avoid them she would spend time at her parent’s home rather than at her husband’s village. She says that if she were to return to Bangladesh she would be targeted by those three individuals and that she would also be targeted by the ruling Bangladeshi Awami League (BAL) due to her previous involvement with the BNP. The Secretary of State did not accept her claim to be at risk and the claimant maintained her account on appeal.

3. The tribunal, in its written reasons of 27 July 2018, whilst expressing concerns as to the claimant’s credibility, did accept that she had been “President of the Bangladesh Nationalist Women’s Party”. It noted that there was background country material before it which suggested that opposition party leaders and activists might face harassment or arbitrary arrest and detention at the hands of the ruling forces in Bangladesh. As to that, at paragraph 28 of its written reasons, it said this:

“28. The CPIN Bangladesh: Opposition to the Government January 2018 suggests that since 2009 opposition leaders and activists have faced harassment and intimidation. Depending upon the particular circumstances and profile of the person any opposition party leaders and activists may face harassment or arbitrary detention. I remind myself that it is necessary for me to consider whether there are particular factors specific to the appellant which could place her at real risk in the light of the background information. I further note that this CPIN states that single women with no support network may be vulnerable if forced to internally relocate.”

4. The tribunal then went on to assess the prospect of risk based upon the circumstances and the claimant’s profile. As to that it said this:

“33. I have considered the Appellant’s position as president of the BNP Women’s Group and find that I am satisfied that she was in this position. The Appellant’s own account in her asylum interview is that she was effectively pushed into this position in 2004. The Appellant’s responses to questions in her asylum interview as to whether she was an active member of the BNP are to say the least unclear (questions 149, 151 and 152) and it is noteworthy that when the Appellant arrived in the United Kingdom she contacted the BNP to see if she was still a member (AIR questions 147/ 148 – 153). In her witness statement paragraph 1 (d) the Appellant states that people came to her house and wanted her to be Chair Person of the BNP Women’s Group. She did not know what was required of her but was elected anyway. Paragraph 1(f) of the Appellant’s witness statement states that as she found out more about the BNP and the fact that it would give her access to resources, she believed that it would be good to help the people. There is nothing in the Appellant’s account to suggest that she was a BNP activist under the normally accepted interpretation of what constitutes a political activist. The Appellant’s own witness statement states that she found her position in the BNP to be of assistance in accessing resources, Miss Pickering [the claimant’s representative before the tribunal] submitted that it may be that the Appellant’s charitable and humanitarian activities may be construed as criticism of the

government and while there is some merit in that argument, I do not find the Appellant's activities in Bangladesh would suggest that she was an opponent of the Government or a political activist on behalf of the BNP. In any event, the Appellant's account has been that the beating which she had received and the subsequent threats when the perpetrators were released from prison where as a result of her declaring that Mohammed Miah had been convicted and sentenced in relation to an offence rather than as a result of her activities on behalf of the BNP. The CPN/ Bangladesh: Opposition to the Government January 2018 indicated opposition party leaders may face harassment and arbitrary arrest and detention but having considered the Appellant's role within the BNP and her activities in Bangladesh I do not find that the Appellant would be at risk upon her return as a result of her activities with the BNP while she was in Bangladesh".

5. The tribunal then considered the question of risk in relation to the three individuals the claimant had said that she feared. The tribunal's consideration of that aspect runs from paragraph 24 to paragraph 36 of the written reasons. I do not propose to set that out in this decision but salient points noted by the tribunal included the fact that on her own account two of the claimed assailants had been imprisoned in relation to the claimed assault; there had been no further assaults since 2008; the claimant had not left Bangladesh until 2011; although she had claimed to have relocated for her own safety she had remained in the same vicinity until her departure for Bangladesh (having gone only some seven to eight miles from her home village); and that if the makers of the threats had genuinely intended to carry them out they would have had an opportunity to have done so. Putting all of that together the tribunal concluded that the claimant had not demonstrated she would be at risk from those individuals if she were to return. Finally, the tribunal concluded, on the basis of the claimant's own indication that she had a number of family members still living in Bangladesh, that she would not be returning to that country "as a lone female". So, on that basis and for those reasons, the appeal was dismissed.

6. An application for permission to appeal then followed. The grounds of appeal, as I read them, criticised the tribunal for making inconsistent findings; for failing to adequately reason out its decision; and for wrongly approaching the question of what weight it ought to give to documentation. But, in truth, a large amount of what was said in the written grounds did not obviously go beyond attempted re-argument with the tribunal's findings and conclusions. Permission to appeal was initially refused but was then granted by a Judge of the Upper Tribunal who said this:

"1. There is no inherent error in the judge's findings that the appellant could be a President of a BNP Women's Group yet not be a political activist. However, as the Judge herself records at [33], the background material (CPIN January 2018) refers to "political leaders" as well as activists facing a risk of harassment and detention. It is arguable that the judge has inadequately considered whether the appellant would, as a political leader, if not an activist, be perceived as an opponent by the government".

7. Permission having been granted the matter was listed before the Upper Tribunal (before me) for an oral hearing so that it could be considered whether the tribunal had erred in law and, if so, what should flow from that. Representation was as stated above. I am grateful to each representative and I have considered what each of them had to say to me.

8. As I confirmed to the parties at the end of the hearing, I have decided that the tribunal did not err in law. I shall now explain why.

9. Mr Noor, building upon the written grounds, saw an inconsistency in the tribunal accepting that the claimant held a position within the BNP but concluding that she is not a BNP

activist. However, as was said by the Upper Tribunal Judge who granted permission to appeal, it is perfectly possible to be the former and not the latter. What the tribunal did was recognise, at paragraph 28 of its written reasons set out above, that oppositionist political leaders and oppositionist political activists might be at risk depending upon the particular circumstances and the profile of the person in question. Then, at paragraph 33 which again I have set out above, the tribunal analysed the circumstances obtaining in this particular case and the claimant's actual profile based upon her activities. It found in consequence of that, that she would not be at risk either as a leader or as an activist. Given the limited information she had given about her activities it was entitled to conclude that she was not a political activist notwithstanding the position she had held. Given its findings, it was entitled to conclude, as it did, that she would not face risk as a leader. That deals with Mr Noor's point and with the point made when permission to appeal was granted. Essentially the tribunal correctly understood the position as to possible risk based on the background country material and it then made its necessary findings in order to reach a conclusion as to risk. Its findings and conclusions were open to it on the material before it.

10. Mr Noor sought to argue, before me, though I do not detect this point in the written grounds, that the tribunal had erred through regarding the risk at the hands of the three individuals and the risk due to political activities as being separate matters. But, essentially, they had been presented as separate matters. Anyway, on the basis of its findings, the tribunal was perfectly entitled to regard them as being separate. In any event, it does not seem to me that it would have impacted upon the outcome whether the claimed sources of risk were regarded as separate or related.

11. Mr Noor criticised the tribunal, in his submissions to me, for wrongly concluding that the claimant would have a sufficiency of protection in Bangladesh. Its reasoning as to that was that the authorities had shown a keenness to protect the claimant by responding to her report of assault, prosecuting the individuals concerned, and then imprisoning them. Mr Noor said that there had been further political developments in Bangladesh since those actions had been taken. But on the material before it the tribunal was entitled to conclude that there would be a sufficiency of protection. Additionally and in any event, the tribunal also concluded that the three individuals no longer had any intention to cause the claimant harm because although they had had the opportunity to attack her in 2009, 2010 and the portion of 2011 prior to her departure from Bangladesh, they had not done so. So, even if the tribunal had erred with respect to its consideration of sufficiency of protection (and I conclude that it did not) the outcome would have been unaffected.

12. Mr Noor argued that the tribunal had erred in the approach it had taken to documentation the claimant had submitted in support of her appeal. But I do not think it has been clearly explained what the claimed error was and, in any event, documentation did not play a significant part at all in the tribunal's deliberations. Such is apparent from what it had to say at paragraph 32 of its written reasons. Despite expressing a mild concern about certain of the documents offered in support of the claimant's contention that she had been the President of the Bangladesh Nationalist Women's Party, it accepted that she had been.

13. For the avoidance of doubt, I was not able to detect anything else in Mr Noor's oral submissions nor in the grounds of appeal which went beyond attempted re-argument with the tribunal's findings and conclusions.

14. In the circumstances it has not been demonstrated that the tribunal erred in law. Accordingly, this appeal to the Upper Tribunal is dismissed.

Decision

The decision of the First-tier Tribunal did not involve the making of an error of law. Accordingly, the claimant's appeal to the Upper Tribunal is dismissed.

I make no anonymity direction. The First-tier Tribunal did not do so and I was not invited to consider doing so.

Signed:

Dated: 10 September 2019

Upper Tribunal Judge Hemingway