



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08001/2018

THE IMMIGRATION ACTS

Heard at Manchester
On February 4, 2019

Decision & Reasons Promulgated
On 25 February 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

MR MOHAMED [S]
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Holmes of Counsel, instructed by the CAB (Bolton)

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

DECISION AND REASONS

1. The appellant entered the United Kingdom on April 15, 2017 and claimed asylum the same day. The respondent refused his application for protection under paragraphs 336 and 339F HC 395 on June 8, 2018.
2. The appellant appealed this decision on June 25, 2018 under Section 82(1) of the Nationality, Immigration and Asylum Act 2002, arguing he had experienced violence at the hands of his extended family as a vulnerable young person and the authorities had failed to provide protection.

3. The appellant's appeal came before Judge of the First-tier Tribunal Parker on August 2, 2018 and in a decision promulgated on August 23, 2018 the Judge dismissed his appeal on protection and human rights grounds.
4. Permission to appeal was sought on September 6, 2018 and Judge of the First-tier Tribunal Keane found it was arguable there had been an error in law because the Judge had failed to give adequate reasons for finding the appellant was not telling the truth and on two occasions the Judge had simply accepted the respondent's submissions without giving reasons for those conclusions.
5. In a Rule 24 letter dated November 22, 2018, as amended by Mr Tan at the hearing, the respondent accepted the Judge had failed to give adequate reasons but submitted that there was no material error because the Judge had considered the issue of internal relocation.
6. No anonymity direction is made.

SUBMISSIONS

7. Mr Holmes submitted that given the concession made by Mr Tan the issue ultimately was one of internal relocation, but to make findings on internal relocation there had to be findings made on the core of the protection claim. Findings made by the Judge, and in particular paragraphs 37 to 39 of the decision, failed to take into account the points which were raised in the grounds of appeal before this Tribunal.
8. Mr Tan responded to that submission accepting that whilst the situation was not ideal the appellant was an adult and at paragraph 33 the Judge had considered his appeal taking the case at its highest.
9. Mr Holmes responded by submitting there had been a complete failure to make adequate findings on the core issues of the appeal and when considering the appeal at its highest the Judge failed to take into account that the appellant's mother was seeking to leave Guinea or the fact that there was no contact between the appellant and his family and his family link had been broken.

FINDINGS

10. This was an appeal brought by the appellant against the Judge's decision. Mr Tan conceded that whilst the Judge had made findings on credibility he had failed to give any reasons for reaching the negative findings that he did.
11. Mr Tan sought to persuade me that the issue of internal relocation could be separated from that error and that there was no material error in law if the internal relocation assessment could stand.
12. I indicated to Mr Tan and Mr Holmes that the Judge was approaching the issue of internal relocation having already formed a view on potentially flawed credibility findings. Mr Holmes' submission internal relocation could not be separated from the credibility findings does in my view have force.

13. This is not simply a case where the the issue of internal relocation can be looked at based on objective evidence only because the corer issues of the appellant's case needed addressing before a decision on on internal relocation could be addressed. Whilst I accept the Judge did state at paragraph 33 that he was considering the case at its highest, I am satisfied that there are sufficient areas of concern highlighted by Mr Holmes that suggest the decision is flawed.
14. I therefore find there has been an error in law.
15. I have considered whether to retain jurisdiction in this matter or to remit the matter back to the First-tier Tribunal. Bearing in mind full credibility findings will be required before the issue of internal relocation can be assessed, it seems more appropriate that this matter be remitted back to the First-tier Tribunal under Section 12(1) of the Tribunals, Courts and Enforcement Act 2007.

Notice of Decision

I find there is an error of law. I set aside the decision and remit the matter back to the First-tier Tribunal under Section 12(1) of the Tribunals, Courts and Enforcement Act 2007.

Signed

Date 19 February 2019

Deputy Upper Tribunal Judge Alis