



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/11121/2018**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On: 27 February 2019**

**Decision & Reasons Promulgated  
On: 14 March 2019**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA**

**Between**

**MUSFIR [A]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the appellant: Mr L Youssefian of Counsel

For the respondent: Mr L Tarlow, Senior Office Presenting Officer

**DECISION AND REASONS**

1. The appellant a citizen of Somalia appealed against the decision of the respondent refusing the appellant's application for asylum and humanitarian protection in the United Kingdom. First-tier Tribunal Judge Fitzgibbon QC dismissed the appellant's appeal in a decision promulgated on 28 December 2018.

2. Permission to appeal was granted by First-tier Tribunal Judge Povey who stated that the respondent assessed the appellant date of birth as 3 July 1999 and proceeded in determining his claim on that basis. This meant that he was a child when he left Somalia. The Judge found that the appellant had given inconsistent information about his age but went on to find that he was untruthful in claiming he was born on 3 July 1999 given that this was the date which was not in dispute. The Judge rejected the appellant's claim that he was forcibly recruited by Al Shabab because background information suggested that they only target children and the appellant was an adult at the time.
3. At the hearing it was agreed by both parties that there has been a material error of law when the Judge found that the appellant was an adult based on his date of birth which was uncontested by the respondent that the appellant who was born on 3 July 1999 and was therefore a child when he left Somalia. It was agreed that the appeal should be remitted to the First-tier Tribunal for findings of fact to be made.
4. In the circumstances, I direct that the appeal be placed before any First-tier Tribunal Judge apart from First-tier Tribunal Judge Fitzgibbon QC for hearing of the appeal de novo.

Dated this 12<sup>th</sup> day of March 2019

Signed by

A Deputy Judge of the Upper Tribunal

.....

Ms S Chana