



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

Appeal Number: PA/12364/2018

THE IMMIGRATION ACTS

**At Field House
On 11 April 2019**

**Decision & Reasons Promulgated
On 17 April 2019**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

[P B]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

NOTICE OF DECISION

1. The appellant appealed the respondent's decision to refuse a protection claim. The decision dated 21 August 2018 only dealt with protection issues and did not make a decision in relation to a human rights claim with reference to Article 8 of the European Convention. However, the appellant was granted leave to remain on human rights grounds for 30 months in a subsequent decision dated 24 August 2018.
2. The appellant appealed to the First-tier Tribunal on the ground that removal would breach the United Kingdom's obligations under the Refugee Convention and would amount to a breach of the appellant's rights under Articles 2 and 3 of the European Convention.
3. First-tier Tribunal Judge Shergill ("the judge") dismissed the appeal in a decision promulgated on 31 January 2019. The appellant was refused permission to appeal to the Upper Tribunal against the decision made on

Refugee Convention grounds but granted permission in relation to the last ground, which asserted that the judge wrongly determined issues relating to Article 8 and erred in purporting to dismiss the appeal on this basis when the point was not an issue in the appeal.

4. The appellant corresponded with the Upper Tribunal and the respondent in order to explore whether the appeal could be determined on the papers. In correspondence dated 29 March 2019 the respondent agreed that the appellant had already been granted leave to remain on Article 8 grounds and that it was understood that Article 8 was not raised as a ground of appeal before the First-tier Tribunal. The respondent agreed to the disposal of this appeal in the way suggested by the appellant in her correspondence dated 25 March 2019.

Decision and reasons


5. I am satisfied that there is evidence to show that both parties agree that this appeal can be disposed of without the need for a hearing in the Upper Tribunal. It seems clear that there was no appeal before the First-tier Tribunal on Article 8 grounds and that the judge erred in purporting to determine an appeal on that basis. The appeal was brought solely against a decision to refuse a protection claim.
6. I am satisfied that the section of the First-tier Tribunal decision making findings on Article 8 should be set aside [35-40] because there was no appeal with reference to Article 8 of the European Convention before the First-tier Tribunal.
7. The remaining findings dismissing the appeal on Refugee Convention grounds and human rights grounds (Articles 2 and 3) shall stand.
8. The hearing listed on 10 May 2019 will be vacated.

DECISION

The First-tier Tribunal decision involved the making of an error of law

That part of the decision which makes findings on Article 8 is set aside

The First-tier Tribunal findings relating to the Refugee Convention and human rights grounds (Articles 2 and 3) stand

Signed 
Upper Tribunal Judge Canavan

Date 11 April 2019