



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/14141/2018**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Decision & Reasons Promulgated
Centre**

On 16th April 2019

On 8th May 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE D N HARRIS

Between

**MR PAYAM KHALEDI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Ashraf

For the Respondent: Mr Tan, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Iran born on 25th April 1990. The Appellant claims to have arrived in the UK on 15th June 2018 and claimed asylum on 16th June. The Appellant's basis for his asylum claim is that he contends he has a well-founded fear of persecution in Iran due to his political opinion. His application was refused by the Secretary of State by Notice of Refusal dated 3rd December 2018.
2. The Appellant appealed and the appeal came before Judge of the First-tier Tribunal Austin sitting at Manchester on 23rd January 2019. In a decision

and reasons promulgated on 24th January 2019 the Appellant's appeal was dismissed on all grounds.

3. Grounds of Appeal were lodged to the Upper Tribunal on 7th February 2019. On 27th February 2019 Judge of the First-tier Tribunal Bird granted permission to appeal. The judge noted that the Appellant sought permission to appeal on the grounds that the judge had failed to give reasons for some of the findings made and further, had failed to take into account the totality of the Appellant's evidence. He considered that it was arguable that in arriving at the conclusions that he did the judge had failed to properly consider the information contained in the Appellant's statements of 12th October 2018 and 14th January 2019. In particular, he makes reference to paragraph 9 of the October 2018 statement and paragraph 6 of the January 2019 statement. In failing to deal adequately with the totality of the evidence, and in failing to give adequate reasons for the findings, he considered that the judge had made an arguable error of law.
4. It is on that basis that the appeal comes before me to determine whether or not there is a material error of law in the decision of the First-tier Tribunal Judge. The Appellant appears by his instructed solicitor, Mrs Ashraf. Mrs Ashraf is familiar with this matter having appeared before the First-tier Tribunal. She is also the author of the Grounds of Appeal. The Secretary of State appears by his Home Office Presenting Officer, Mr Tan.
5. This matter is greatly assisted by the approach adopted by Mr Tan who, prior to any submission, concedes the submissions made in the Grounds of Appeal as recited by Judge Bird. He asked me to find on that basis that there is a material error of law in the decision of the First-tier Tribunal Judge. I have given due consideration to the grounds cross-referencing them back to Judge Austin's decision and I agree with the view expressed by Mr Tan. On that basis I find that there are material errors of law in the decision of the First-tier Tribunal Judge and I support the representations of both advocates that the correct approach is for the matter to be remitted for rehearing. Directions are given hereinafter.

Decision and Directions

The decision of the First-tier Tribunal Judge discloses material errors of law and the decision is consequently set aside and directions are given hereinafter for the rehearing of this matter.

- (1) On finding that there are material errors of law in the decision of the First-tier Tribunal Judge the matter is remitted to the First-tier Tribunal sitting at Manchester on the first available date 28 days hence with an ELH of three hours.
- (2) None of the findings of fact are to stand.
- (3) That the appeal is to be before any Judge of the First-tier Tribunal other than Immigration Judge Austin.

- (4) That there be leave to either party to file and serve an up-to-date bundle of such subjective and/or objective evidence upon which they seek to rely at least seven days prior to the restored hearing.
- (5) That a Farsi Iranian interpreter do attend the restored hearing.

No anonymity direction is made.

Signed

Date 29th April 2019

Deputy Upper Tribunal Judge D N Harris

**TO THE RESPONDENT
FEE AWARD**

No application is made for a fee award and none is made.

Signed

Date 29th April 2019

Deputy Upper Tribunal Judge D N Harris