



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

Appeal Number: PA/06218/2019

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC  
On 13<sup>th</sup> January 2020**

**Decision & Reasons Promulgated  
On 23<sup>rd</sup> January 2020**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL  
G A BLACK**

**Between**

**MR M G  
ANONYMITY ORDER MADE**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Majid (Counsel)

For the Respondent: Mr Tan (Home Office Presenting Officer)

**ERROR OF LAW DECISION AND REASONS**

1. This is an error of law hearing. The appellant appeals against the decision of the First tier Tribunal (Judge Chambers) (FtT) promulgated on 16<sup>th</sup> August 2019 in which the appellant's protection and human rights claims were dismissed.

## **Background**

2. The appellant claimed that he was born on 4.2.1994 and was a citizen of Eritrea and Ethiopia. His mother was Eritrean and his father was Ethiopian. His claim was that if returned to Eritrea he would be persecuted. Nationality was an issue at the appeal.
3. The appellant gave evidence and called a witness EF to corroborate his account in particular of having undergone military training at a number of camps in Eritrea. The FtT found the evidence of the witness to be untruthful as it was not consistent with the information contained in a Home Office Asylum Grant minute. The FtT went so far as to find that the witness had fabricated his account to support the appellant [18] and concluded that the witness was “not dependable” [21], and found that he is “not a witness of truth” [22]. At [22] the FtT stated that “*the evidence that EF gave to the Tribunal when it is contrasted with the relevant sections of the Asylum Minute cannot live in the same world.*” The FtT found that the information in the Minute was a fair and accurate reflection. The FtT concluded that as the witness was untruthful then by association the appellant must have known that he was not telling the truth and was himself “*being dishonest in the presentation of his case and was trying to deceive the Tribunal.*” [23].

## **Grounds of appeal**

4. In grounds of appeal the appellant argued that the FtT erred by making material mistake of facts and by failing to properly consider the documentary evidence in the form of the Asylum Grant Minute which in fact recorded details of the places where the witness claimed that he was assigned and which was entirely consistent with the account given by the appellant.
5. The FtT failed to put to the witness inconsistencies in his evidence although it is recorded in the decision that this was the case.
6. The FtT in reaching its decision as to the appellant’s nationality failed to take into account evidence of the appellant’s ID card, his mother’s ID card and the undisputed fact that the appellant spoke fluent Tigrinya.

## **Permission to appeal**

7. Permission to appeal to the Upper Tribunal (UT) was granted by FTJ O’Brien on 2.10.2019 on all grounds.

## **Submissions**

8. At the hearing before me Mr Majid, representing the appellant, relied on the grounds of appeal. Mr Tan for the respondent did not oppose the appeal.

**Discussion and conclusion**

9. I have considered the documentary evidence that was before the FtT in the form of the Asylum Grant Minute. The FtT found that the document was fair and accurate. I am satisfied that the document refers to the witness having been assigned to Wia in 2008 and to Maereba in 2009/2010 military camps and also to Vasea and Dekemere in 2009 (see pages 2/9 and 3/9 Minute). This evidence was consistent with the accounts given in the witness statements and evidence of both the appellant and his witness. I am satisfied that the FtT made a mistake of fact that amounts to a material error of law as the evidence went to the core of the appellant's claim which the FtT found to be untrue. The factual error formed the basis for the FtT's decision and conclusion that the appellant and his witness had fabricated the account and were trying to deceive the Tribunal. The evidence in the Minute was capable of corroborating the appellant's account.
10. The FtT failed to give anxious scrutiny to the content of the documentary evidence leading to a material error of law. Thereafter the FtT in reaching its conclusions repeatedly made forceful statements as to the honesty of the appellant and his witness which had no foundation. It is incumbent on the FtT to fairly and properly assess and scrutinise the evidence before it and in this instance its failure to do so falls well below the standard expected.
11. There is a material error of law disclosed in the decision which shall be set aside.

**Decision**

12. The appeal is allowed. The decision is set aside and is remitted to the FtT at Manchester for a hearing do novo (excluding FTJ Chambers).

Signed

Date 13.1.2020

GA Black  
Deputy Judge of the Upper Tribunal

ANONYMITY ORDER MADE

**Direction Regarding Anonymity - rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014**

Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

NO FEE AWARD

Signed

Date 13.1.2020

GA Black  
Deputy Judge of the Upper Tribunal