



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

Appeal Number: PA/06362/2019

THE IMMIGRATION ACTS

**Decision on Papers (P)
On 15 June 2020**

**Decision & Reasons Promulgated
On 9 July 2020**

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

**TS
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Chohan, promulgated on 17 December 2019. Permission to appeal was granted by First-tier Tribunal Judge Grant on 13 February 2020.

Anonymity

2. No direction has been made previously, however out of an abundance of caution such a direction is now made owing to the basis of the appellant's protection claim.

Background

3. The appellant entered the UK on 3 July 2008 as a student. His attempt to extend his leave was unsuccessful owing to an absence of a valid Confirmation of Acceptance for Studies (CAS) and his leave expired on 9

June 2014. A subsequent human rights claims was unsuccessful. The appellant applied for asylum on 12 November 2015 after being detained pending his removal to Bangladesh. The basis of that claim was that he had become an atheist and feared for his life at the hands of a variety of actors. The Secretary of State refused that claim in a decision dated 18 June 2019 primarily because it was not accepted that the appellant had become an atheist or written books on the subject and consequently it was not accepted that he had encountered problems as a result.

The decision of the First-tier Tribunal

4. The appellant gave evidence to the First-tier Tribunal as did two witness I and L. The judge found that the appellant's claim to be an atheist lacked credibility and that his documentary evidence was deserving of no weight.

The grounds of appeal

5. The grounds of appeal are three-fold, but all concern the failure by the judge to consider the report of an expert or the evidence of who witness who gave oral evidence, in reaching his credibility findings.
6. Permission to appeal was granted on the basis sought.

Procedure

7. This appeal was originally listed for hearing on 15 April 2020 but was adjourned on 20 March 2020 owing to public health concerns.
8. Directions dated 24 March 2020 were served on the parties which stated that a provisional view had been taken that the matter could be decided without a hearing and invited written submissions regarding whether the First-tier Tribunal made an error of law and whether that decision should be set aside. The parties were further invited to submit reasons if it was considered that a hearing was necessary.
9. The respondent provided a Rule 24 response on 16 April 2020 and the appellant forwarded written submissions by email on 23 April 2020. No submissions were made by either party to the effect that a hearing was necessary in relation to the error of law issue.

Decision on error of law

10. I have taken into consideration all the documents before me in reaching my decision. The respondent's Rule 24 response states that the respondent does not oppose the appellant's appeal and expresses agreement that while the judge noted the evidence of the witnesses and the report, he made no findings concerning them.
11. The respondent is correct to concede that the First-tier Tribunal made no findings on the evidence of the live witnesses nor the expert opinion. The evidence of one of the witnesses (I) was that he had witnessed the appellant being threatened in Bangladesh and the evidence of the other (L) was that the appellant held anti-Islamic and atheist views. Both of

these issues were highly relevant to the appellant's protection claim. In these circumstances, the decision cannot stand.

12. Both the appellant and respondent are of the view that the remaking of this appeal should be at a hearing, preferably before the First-tier Tribunal. While mindful of statement 7 of the Senior President's Practice Statements of 10 February 2010, it is the case that the appellant has yet to have an adequate consideration of his asylum appeal at the First-tier Tribunal and it would be unfair to deprive him of such consideration.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error of on a point of law.

The decision of the First-tier Tribunal is set aside.

The appeal is remitted, de novo, to the First-tier Tribunal to be reheard at Birmingham IAC, with a time estimate of 4 hours, by any judge except First-tier Tribunal Judge Chohan.

Signed:

Date 15 June 2020

Upper Tribunal Judge Kamara