



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

Appeal Number: PA/08813/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 13 November 2020**

**Decision & Reasons Promulgated
On 23 November 2020**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**JT
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Collins, Counsel instructed by Mayfair Law Solicitors
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the Appellant is an asylum seeker.
2. This is an appeal against a decision of the First-tier Tribunal dismissing the Appellant's appeal against a decision of the Secretary of State refusing him international protection and other relief.

3. The reason for giving permission and the thrust of the grounds is that the adverse findings of the First-tier Tribunal were fundamentally unfair because they relied to a considerable extent on matters that had not been challenged by the Secretary of State and/or had not been put to the witness. This is not to say that every point has to be put or that every challenge has to be outlined but it is always dangerous not to put and outline and when it is not done on a large scale the risk of unfairness becomes very real indeed.
4. I have been considerably assisted here by a very realistic Rule 24 notice from Mr Kotas, basically bowing to the inevitable and accepting the decision was unsatisfactory for the reasons I have outlined, and suggesting that the remedy is for a complete rehearing, all issues open before the First-tier Tribunal.
5. Mr Collins agrees and so do I.
6. All judges in the Upper Tribunal must think before we send work back to the First-tier Tribunal but the essential point here is that there has been no proper determination of the appeal because the reasons given are wrong for the reasons I have outlined here. The Appellant is not entitled to a decision that keeps open all of his appeal rights but that is consideration and is a strong one when the existing decision is fundamentally flawed.
7. The First-tier Tribunal erred in law. I set aside its decision and I direct that the case be heard in the First-tier Tribunal.
8. It is apparent from looking at the papers that there has been an unfortunate history here of delay and confusion, in part because of the Appellant's apparent ill health. I have no intention of ordering the First-tier Tribunal about how it goes about its affairs but I draw this to its attention and respectfully suggest it might be appropriate for a CMR hearing before the case is finally listed. Mr Collins made this suggestion. With respect, I think it is sensible.

9. Notice of Decision

The First-tier Tribunal erred in law. I set aside its decision and direct that the case is heard again in the First-tier Tribunal before a different judge.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 19 November 2020