



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/07702/2019**

THE IMMIGRATION ACTS

**Heard remotely via Skype for Decision & Reasons Promulgated
Business
On 9 April 2021 On 20 April 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**BB
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Wood

For the Respondent: Mrs Pettersen, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a male citizen of Mongolia who was born in 1982. His wife and two children are dependent upon his appeal. He appeals against a decision of the First-tier Tribunal which was promulgated on 10 March 2020. The First-tier Tribunal dismissed the appellant's appeal against a decision of the Secretary of State dated 1 August 2019 refusing him international protection.

2. Having considered the papers and having heard the submissions of representatives for both parties at an initial hearing, I find that the First-tier Tribunal has erred in law such that its decision falls to be set aside.
3. The judge found that the appellant's account of past events in Mongolia was not credible. A summary of the appellant's account is given by Upper Tribunal Judge Blundell in the grant of permission at [1]. The appellant relied upon a number of documents in support of his appeal. The judge found [17] that the weight attaching to a degree certificate was 'undermined' by the fact it was written in identical font and format in Mongolian and English. He overlooked or chose to ignore the explanation provided by the appellant, namely that the certificate had been issued by the university in both English and Mongolian. The respondent argues that the degree certificate adds very little to the appellant's claim for asylum which arises from a claimed fear of being falsely accused of a crime committed by an influential Mongolian individual.
4. Whilst the document may not itself touch on the core of the appellant's claim, it was part of the totality of the evidence which the judge was obliged to consider. The judge has referred to and applied the principles of *Tanveer Ahmed** [2002] UKIAT 00439 which require a judicial decision maker to assess the evidential value of documents in the context of the whole evidence. The analysis of documentary evidence should feed into the judge's assessment of credibility and *vice versa*. The difficulty here is that, although the degree certificate may not materially advance the appellant's case, the fact that the judge considered it unreliable has influenced his overall assessment of the appellant's credibility as a witness. That assessment may be vitiated if, as here, the judge has failed to take account of an explanation for apparent anomalies in a document. In short, whilst the contents of the document may have added nothing to the appellant's claim, the judge's rejection of it without considering an explanation for apparent anomalies led the judge into legal error.
5. Granting permission, Judge Blundell also drew attention to the failure of the judge to consider explanations given by the appellant before 'seizing upon' discrepancies between the appellant's remote asylum interview and his later evidence. The judge was, of course, not obliged to accept the appellant's explanations but he should at least have engaged with the explanations if only to reject them. I find that ground is made out also.
6. In my opinion, the judge's assessment of the credibility of the appellant's account is flawed for the reasons I have given. I stress that what I have said should not be taken an acceptance of the appellant's account only that the particular assessment of that account made by the First-tier Tribunal was flawed. The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. There will need to be a new fact-finding exercise which is better conducted in the First-tier

Tribunal to which the appeal is now returned for that Tribunal to remake the decision.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*. Both parties may rely on new evidence provided copies of any documentary evidence (including witness statements) are sent to the other party and the Tribunal no less than 10 days before the next hearing.

LISTING DIRECTIONS: Manchester; first available date; First-tier Tribunal to decide if face to face or remote; Mongolian interpreter; not Judge O R Williams; 2 hours.

Signed
April 2021
Upper Tribunal Judge Lane

Date 9

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.