



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-000159
First-tier Tribunal No: PA/03029/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 29 March 2023

Before

UPPER TRIBUNAL JUDGE LANE

Between

IH
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Abdullah
For the Respondent: Mr McVeety, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 21 February 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant (who was born on 21 October 1987) is a Palestinian from Gaza. By a decision dated 12 March 2020, the appellant's application for international

protection was refused by the Secretary of State. She appealed to the First-tier Tribunal which, in a decision promulgated on 9 June 2021, dismissed her appeal. the appellant now appeals, with permission, to the Upper Tribunal.

2. At the initial hearing at Manchester on 21 February 2023, Mr McVeety, who appeared for the Secretary of State, told me that the appeal was not opposed. The Secretary of State accepts that the judge's finding that, taking her account at its highest, the appellant could avail herself of the option of internal flight to the West Bank (on the basis that this is part of the Occupied Palestinian Territories (OPT)) is unsound in law. Although the judge states [12] that the Secretary of State's refusal letter 'left open the possibility of return to either Gaza or the West Bank', Mr McVeety said that such a possibility was not raised in the refusal letter nor does the Presenting Officer's record of proceedings indicate that it was referred to by the judge or the parties at the First-tier Tribunal hearing. As Upper Tribunal Judge Smith noted when granting permission, the exercise of internal flight to the West Bank 'might ultimately be found' to be possible, but the judge has proceeded to determine the appeal without giving the parties to make submissions on an issue which was not before the Tribunal at the hearing. Moreover, the judge assessed the application's credibility partly by reference to the failure of her husband to provide evidence to show that he could not relocate to the West Bank. Credibility was, therefore, assessed by reference to a matter on which the parties had been denied the opportunity to make submissions.
3. In the circumstances, I set aside the decision. The error of law goes to the core of the credibility assessment and accordingly I direct that none of the findings of fact shall stand. I have had regard to *Begum* [2023] UKUT 00046 (IAC) and consider that, since the appellant has been denied a fair hearing of her appeal, the appeal should be returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

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*.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 23 February 2023