



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001916
First-tier Tribunal No:
HU/54752/2022
IA/07378/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 12 October 2023

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

S E S
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hadow instructed by Gray & Co solicitors
For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

Heard at Melville Street, Edinburgh on 11 October 2023

DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge D H Clapham promulgated on 15 May 2023 dismissing his appeal against a decision of the Secretary of State to refuse his asylum and protection claim.
2. Both parties agreed that the decision of the First-tier Tribunal involved the making of an error of law for the reasons set out in the grounds of

appeal. They were right to do so. The judge erred in attaching weight to an apparent discrepancy in the appellant's stated ethnicity without properly engaging in the evidence, as set out in Mr Haddow's written submissions. She further erred in drawing adverse inferences from the number of leaflets the appellant produced which in turn appears to arise from a mistake as to the facts. In the circumstances, the credibility findings cannot stand, and so the decision involved the making of an error of law and must be set aside.

3. As it will be necessary for a full remaking of the decision, I am satisfied that the only proper course of action is to remit the appeal to the First-tier Tribunal for a de novo hearing.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. I remit the appeal to the First-tier Tribunal for it to make a fresh decision on all matters. None of the findings of fact are preserved.

Signed

Date: 11 October 2023

Jeremy K H Rintoul

Judge of the Upper Tribunal