



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2023-002030
First-tier Tribunal No:
PA/54141/2022
IA/10037/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 September 2023

Before

UPPER TRIBUNAL JUDGE KEBEDE
DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

KMQ
(Anonymity Order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Bhachu, instructed by Freedom Solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 11 September 2023

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse his asylum and human rights claims.

2. The appellant claims to be a national of Iran born on 19 April 1991, but his claimed nationality is not accepted by the respondent. Prior to entry to the UK the appellant was encountered in France on 6 March 2008 and fingerprinted, identifying himself to the French authorities as an Iraqi national with a different name. The appellant then

left France and came to the UK, arriving on 14 April 2008. He claimed asylum the same day, stating that he was an Iranian national and claiming to be at risk on return to Iran. His claim was refused on 22 October 2008 in a decision in which the respondent rejected his claim to be Iranian. He appealed against that decision. His appeal was dismissed on 23 April 2009 by First-tier Tribunal Judge Fisher who did not accept that he was an Iranian national and did not accept any of his evidence. The appellant became appeal rights exhausted on 8 May 2009 and then made further representations in 2009, 2010 and 2014, all of which were refused, as was a subsequent application for indefinite leave to remain in 2018. On 27 February 2020 the appellant made further submissions which were refused on 1 July 2020. On 6 October 2021 he made further submissions which were refused on 14 September 2022 with a right of appeal, giving rise to these proceedings. Again, the respondent rejected the appellant's claim to be Iranian.

3. The appellant's appeal was heard by First-tier Tribunal Judge Emmerson on 24 April 2023. The judge did not accept that the appellant was Iranian and found his claim to be lacking in credibility.

4. The appellant sought, and was granted, permission to appeal to the Upper Tribunal against Judge Emmerson's decision, on the grounds that the judge had made several errors when considering the issue of the appellant's nationality.

5. The respondent filed a Rule 24 response on 13 July 2013 agreeing with the grounds of appeal, indicating that the appellant's appeal was not opposed and inviting the Tribunal to remit the case to the First-tier Tribunal for a *de novo* hearing.

6. The matter then came before us. Mr Tufan confirmed the Rule 24 response and requested a remittal to the First-tier Tribunal. Ms Bhachu, naturally, had no objection to that course, submitting that the errors made by the judge infected his entire credibility assessment and that none of his findings should stand.

7. In the circumstances, in light of the respondent's concession, and having had regard to the appellant's grounds of appeal, we set aside Judge Emmerson's decision in its entirety and remit the case to the First-tier Tribunal for a *de novo* hearing, with no findings preserved.

Notice of Decision

8. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Emmerson.

Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

11 September 2023