



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2024-0001474**  
**First-tier Tribunal No:**  
**PA/53092/2023**  
**LP/00234/2024**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 07 August 2024**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**MR**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Hingora instructed by Siddique Solicitors  
For the Respondent: Mr Bates, a Senior Home Office Presenting Officer.

**Heard at Manchester Civil Justice Centre on 29 July 2024**

**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 appeal with permission a decision of First-tier Tribunal Judge Chowdhury ('the Judge'), promulgated following a hearing at Manchester Piccadilly on 6 February 2024, in which the Judge dismissed his appeal on protection and human rights grounds against the refusal of his application for

international protection and/or leave to remain in the United Kingdom on any other basis.

2. The Appellant is a citizen of Bangladesh born on 1 December 2003. He stated he left Bangladesh in January 2019 and travelled through a number of different countries, including Greece where he claimed asylum and where he made an application under the Dublin III Regulations to join his sister in the UK and to have his asylum claim transferred here. Following his substantive asylum interview the asylum claim was refused on 12 May 2023. It is the appeal against that decision which came before the Judge.
3. The Judge sets out the basis of the Appellant's claim between [2 - 3] and core points raised in the Refusal Letter between [4 - 11]. Having set out a legal self-direction, and having considered the documentary and oral evidence, the Judge sets out findings of fact from [18] of the decision under challenge.
4. Following receipt of the determination dismissing the appeal the Appellant sought permission to appeal on six grounds being (1) the failure of the Judge to conduct an assessment of risk by applying the correct standard of proof, (2) by undertaking a flawed credibility assessment of the Appellant, (3) by making a misdirection in law in relation to the approach to assessing risk upon return, (4) failing to take into account relevant factors when assessing risk, (5) taking into account irrelevant factors when assessing medical documents, and, (6) failing to conduct a proper proportionality assessment under paragraph 276ADE(1)(vi) very significant obstacles to integration assessment.
5. Permission to appeal was initially refused by another judge of the First-tier Tribunal but granted on a renewed application to the Upper Tribunal in the following terms:

Ground 1

4. What is important is not simply the citation of authority, but the application of the correct principles, in this case relating to the lower standard of proof.
5. I am cautious before granting permission on a standard of proof point. It might be thought that a judge considering a protection claim must be taken to have applied the lower standard. Having said that, there is no reference to the lower standard in the judge's decision and certain phraseology might be said to indicate the application of a higher standard. Overall, ground 1 deserves further scrutiny, although the appellant should not take this as a strong indicator of ultimate success.

Grounds 2 and 3

6. These are essentially linked to Ground 1 and permission should sensibly be granted.

Grounds 4 and 5

7. These appear to have little merit, but I am not going to restrict the grant of permission.

Ground 6

8. The judge does not appear to have addressed the appellant's mental health condition when considering Article 8/paragraph 276ADE(1)(vi). It is somewhat doubtful as to whether that particular consideration would have made any real difference to the outcome, but the point is arguable.

Signed: H Norton-Taylor  
Upper Tribunal Judge Norton-Taylor

Dated: 9 May 2024.

### Discussion and analysis

6. Ground 1 asserts a failure by the Judge to conduct an assessment of risk by applying the correct standard of proof. It is claimed such error arose as (1) there was no self-direction of the applicable standard of proof (express or implied) and (2) the Judge uses language which arguably demonstrates that the Judge applied a higher standard of proof, said to be on the balance of probabilities.
7. I do not find the Judge erred in law in not setting out a legal self-direction in relation to the applicable burden and standard of proof in an appeal of this nature.
8. Guidance has been given to appellate judges when considering challenges to decisions of judges below by the Court of Appeal. It is accepted that judges of the First-tier Tribunal are to be taken to be aware of relevant authorities and the law, and to have applied it, unless it is clear from the language used that they had failed to do so, correctly or at all.
9. First-tier Tribunal judges are also now encouraged to produce shorter, more focused determinations, dealing with the core issues and the evidence and findings in relation to the same and to move away from the previous practice of setting out pages of law and statutes; a practice followed in most cases as a result of fears that judges will be accused of not having applied the correct law if they did not do so!
10. I do not find it made out that just because the Judge did not set out a legal self-direction or refer to that during the course of the determination, the Judge has materially erred in law. The real issue is whether the language used by the Judge indicates an incorrect standard of proof being applied.
11. The grounds seeking permission to appeal refer to the 'appropriate language' but that takes the matter no further. Similarly, there is also a reference to the case of MAH (Egypt) v Secretary of State the Home Department [2023] EWCA Civ 216 a case in which although the Upper Tribunal repeatedly used the phrase "lower standard of proof" the Court of Appeal disagreed. That case is, however, fact specific and does not set any form of precedent.
12. In relation to the use of language point, Mr Hingora was asked for examples to support his argument and referred to those set out at [9] of the application for permission to appeal in which he writes:
  8. Further, the FTTJ at no point draws on language which suggests that the correct standard of proof was being applied notwithstanding the failure to state the standard of proof at §3 of these grounds.
  9. Instead, the FTTJ uses language which arguably demonstrates that the incorrect standard of proof has been applied:
    - 1) At [20] the FTTJ uses language akin to assessing the claim on the balance of probabilities where the FTTJ states "As a consequence I do not find that he posed a threat to the Awami Lague as claimed who I find would be more likely to target older more influential leaders of a higher profile.'
    - 2) At [21] the FTTJ states "One would ordinarily expect such a position to be officially confirmed."
    - 3) At [28] the FTTJ states "Given the number of inconsistencies I cannot safely rely on his account of him being attacked. I cannot safely rely on the medical evidence which is defective for the reasons I have given at paragraph 24 and at odds with his account in any event."

13. There is always a risk in finding an error of law on the basis of a selective quote from a judge's determination. For example, at [20], the Judge actually wrote:
  20. I had the benefit of hearing oral evidence from the appellant and I do not find him to be a credible witness of fact. It is clear that his claimed activities for the BNP were when he was under 18 years of age. I have had regard to the Respondent's country evidence stating that to be a member of the party one had to be 18 years old. I accept the Respondent's submission that being a child would have limited the scale of his claimed influence to mobilise and motivate voters to vote for the BNP. As a consequence I do not find a queue posed a threat to the Awami League as claimed who I find would be more likely to target older more influential leaders of a higher profile. The Appellant states that he had a large follower base however this is not borne out by evidence. No evidence from the BNP itself confirming this alleged large follower base had been provided.
14. The Judge's finding that the Awami League will be more likely to target older more influential leaders of a higher profile is not a finding by the judge making an assessment on the balance of probabilities or any erroneous standard of proof. The Judge found the Appellant was not telling the truth. That is a finding supported by country information which was the basis for the Secretary of State's submission. The country information shows that those more likely to be targeted are older more influential leaders who have a higher profile who are perceived as a threat to the Awami League, rather than a person under the age of 18 who was not found to have a credible adverse profile. I do not find it made out that at [20] the Judge applied an incorrect standard of proof.
15. At [21] the Judge wrote:
  21. It is only in his witness statement that the Appellant claims to be a president of a subgroup of the BNP called the *Jubodal*. No mention of this subgroup was made in his PIQ or interview. In his statement he said that he was made president of this group but before me added that this was done "verbally" not officially and this is why he had not mentioned it before. I reject this evidence. The embellishment was added because I find the Appellant knew he could not join the BNP before voting age. Secondly no evidence of the Appellant's involvement with the *Jubo Dal* has been provided. Thirdly I reject his evidence that he was elected "unofficially" as President. One would ordinarily expect such a position to be officially confirmed.
16. The grounds seeking permission to appeal only challenge the final sentence of that paragraph. As with the other challenges on this basis they choose to ignore the substance or context in which the individual statement is made. In this paragraph the Judge finds the Appellant has attempted to embellish his claim, as there is no mention of the alleged subgroup in the other sources of evidence referred to by the Judge. It is not wrong for a judge to write that one would ordinarily expect such a decision to be officially confirmed when applying the lower standard of proof. The words are being taken out of context and do not themselves demonstrate an incorrect standard of proof being applied. I do not find it made out that at [21] the Judge applied an incorrect standard of proof.
17. At [28] the Judge writes:
  28. Given the number of inconsistencies I cannot safely rely on his account of him being attacked. I cannot safely rely on the medical evidence which is defective for the reasons I have given at paragraph 24 and at odds with his account in any event.

18. Again, there is nothing on the face of this paragraph that would indicate an incorrect burden and standard of proof. The Judge was entitled to refer to inconsistencies and has given sufficient reasons for why that conclusion was reached. The finding that as a result of the inconsistencies the Judge was unable to safely rely on the Appellant's account of him being attacked, has not been shown to be finding outside the range of those reasonably open to the Judge on the evidence. The Judge also makes clear findings in relation to the medical evidence before coming to that overall conclusion. That is a finding that was open to the Judge applying the lower standard of proof. I do not find it made out that at [28] the Judge applied an incorrect standard of proof.
19. Although Mr Hingora referred to the need for a nuanced approach, that statement adds nothing to the pleaded grounds and does not establish legal error on Ground 1.
20. Ground 2 asserts the Judge erred in the approach to assessing credibility in any event, claiming the Judge did not afford any latitude to the Appellant on account of his having been a minor at the time of the alleged incidents which he relied upon, did not take into account the fact the Appellant suffers from depression and has been prescribed Sertraline, as a result of the alleged torture and fear, failed to take into account there may be many reasons why a person may lie about some issues, which is not necessarily inconsistent with not telling the truth about issues of fact that required to be determined, and did not remind himself that asylum seekers may exaggerate and embellish their case while still presenting a credible core.
21. It is also appropriate at this stage to take into account Ground 5 in which the Judge is accused of taking into account irrelevant factors when assessing the medical documents.
22. The Judge considered the medical evidence from [24 - 26] of the determination. In these paragraphs are Judge writes, having set out a reference to the case of Mibanga and the correct approach being to make a holistic assessment of whether a person is telling the truth about relevant aspects of their case by taking into account all the relevant evidence when making that assessment:
  24. The Medical evidence states that he was examined on 20 January 2019 6:45pm at the hospital in Sunamgonj. This medical evidence, such as it is, observes the age of the increase was "5 hours" which was inconsistent with the Appellant's evidence that he was attacked in the early evening (see witness statement dated August 2023). Quite how the age of the injuries is arrived with such precision is also not explained. The medical evidence is not accompanied by a CV of the attending doctors credentials.
  25. His account of being attacked by the branches of the Awami League has also been inconsistent. He states it in his interview at question 105 and in his PIQ states that he woke up alone and managed to escape. The Appellant now claim city completed the PIQ quickly however this does not explain the differences in his account. I find that the PIQ would have been completely under his direction and control.
  26. In oral evidence he stated that he did not wake up alone. Local people came from the bizarre and they took him to the medical centre. (This is in contrast to his witness statement where he states his cousin took him to the hospital - see paragraph 4).
23. The Appellant claims the point about the CV was not taken by the Respondent in the review. Even if that is so, that does not prevent the Judge considering the whole of the report. Whilst it is claimed at [24] that the attending Doctor's CV

would not have assisted in any event, which may be the view of the author of the grounds, it would clearly have been an issue relevant to the weight that could be given to the medical report. Although it is claimed the Appellant did not have the opportunity to address the lack of a CV I do not find this establishes legal error on the basis of procedural unfairness, as the main reason the Judge felt unable to place weight upon the medical report was due to the inconsistencies between what was written by the alleged medical practitioner and the Appellant in his own evidence. The Judge's concerns about inconsistencies in the Appellant's evidence and how they stood with other aspects of the evidence, leading to the adverse credibility findings, are clearly conclusions within the range of those reasonably open to the Judge on the evidence. I find no legal error made out on ground 5.

24. In relation to the claim the Judge's credibility assessment is flawed I find no legal error made out. The Judge was clearly aware of the Appellant's age at the time of the alleged incidents but those claims were, in part, shown to lack credibility by reference to country information. The Judge was entitled to expect the Appellant to tell the truth. It was his own evidence that was of concern to the Judge. The Judge's self-direction in relation to how credibility should be assessed is to be found at [18] and [19].
25. The Judge specific refers to age at [20] and gives adequate reasons for why, despite the Appellant's age when he claimed to be a member of the BNP, his claim is not credible. The Judge gave sustainable reasons for why it was not accepted the Appellant was telling the truth.
26. Ground 3 does not establish any misdirection of law in the Judge's approaching and nor does Ground 4 series in relation to the Judge's approach to the assessment of the credibility of the claim or alleged risk on return.
27. Ground 6 asserts a failure to conduct a proper proportionality assessment and in relation to paragraph 276 ADE (1)(vi) very significant obstacles to integration assessment, claiming the Judge failed to take into account the Appellant's mental health issues for which he had been prescribed an antidepressant, Sertraline 50 mg. It is said the Judge failed to take into account the CPIN on mental health facilities which it is claimed provides evidence of inadequate treatment for mental health conditions, including social stigma and lack of awareness, and that there was virtually no balance sheet approved by the Tribunal in assessing the competing arguments.
28. In the Appellant's skeleton argument [25 - 26] it is written:

25—The Appellant's mental health issues also need to be taken in to account. He has provided a letter from his GP which confirms that he is suffering from anxiety and depression. He is also 41 currently taking medication in the form of sertraline. The attack on him has really had a detrimental effect on his mental health, wellbeing and confidence. The Appellant is known to regularly wake up in the middle of the night and walk around the house aimlessly and he also occasionally fears leaving the house on his own, in case he gets attacked. His mental health needs are being well looked after as well as they can be here in the UK. If he was forced to return to Bangladesh, his mental health would deteriorate rapidly and he would be unable to function in day to day life.

26—It is submitted that according to the CPIN Bangladesh: Medical treatment and healthcare July 2022, Government facilities for treating people with mental health issues are inadequate. There are only 270 psychiatrists in the whole of Bangladesh and a measly 0.44% of the total healthcare budget is spent on mental health. If the Appellant was forced to return to Bangladesh, he would be at the mercy of the poorly funded healthcare system and his mental health is likely to experience a

rapid decline without appropriate medical treatment and the support of his family members. This would be a breach of the Appellant's human rights.

29. At [8] of the Appellant's own witness statement he wrote:

8. I confirm that I am having issues with my sleep, almost like sleep disorder. I keep waking up from my sleep figures I have flashbacks of the incident in Bangladesh. I have been to see Doctor and I am taking anti-depressants (Sertraline). I have also been referred for counselling. The GP Surgery is Hazel Valley Family Practice in Haslingden.

30. A letter from the GP dated 26 June 2023 added very little additional evidence, only stating the Appellant is a patient of the practice since 10 August 2021, that he is known to have anxiety and depression, is currently taking medication, and is under review with themselves.

31. There was also before the Judge a photograph of a box issued by a pharmacy in the Appellant's name containing 28 sertraline 50 mg tablets dated 25 July 2023.

32. Reference is made in the Appellant's skeleton argument dated 21 August 2023 to the CPIN Bangladesh as noted above. The section dealing with mental health, section 10, reads:

### **10. Mental health**

10.1.1 USSD noted that 'Government facilities for treating persons with mental disabilities were inadequate.'<sup>[footnote 84](#)</sup>

10.1.2 Faruk, M, & Hasan, M's paper 'Mental health of indigenous people: is Bangladesh paying enough attention?' published in BJ Psych international journal on 3 March 2022 noted:

'Recent research has revealed that approximately 17% of adults and 14% of children in Bangladesh are experiencing poor mental health. Despite the widespread nature of these problems, most adults (approximately 92%) who are affected have not sought medical attention. The corresponding figure is even greater for children (only 5% receive help). The latest prevalence figures were published in 2019 [by the National Institute of Mental Health] .... The reasons those affected have not consulted a professional include widespread stigma around the subject of mental disorder, the lack of awareness of potential treatments and restricted access to mental healthcare in many parts of the country...

'At present, 270 psychiatrists work in Bangladesh, which amounts to a total of just 0.073 psychiatrists per 100 000 population...

'Bangladesh has about 500 clinical psychologists. The distribution of mental health professionals between urban and rural areas is grossly disproportionate.

'The capital city, Dhaka, has the highest proportion of professionals (e.g., psychiatrists and psychiatric nurses), five times greater than the rest of the country.<sup>11</sup> Just 0.44% of the total healthcare budget is allocated to mental health and there is no provision of social insurance to cover expenses for mental healthcare. Out-patient facilities, community-based psychiatric in-patient units and community residential facilities are based in principal cities.

'There is very limited access to mental healthcare for indigenous communities, especially people living in the Chittagong Hill Tracts (CHT) region. This region, which borders both India and Myanmar in the south-east of the country, has a population of about 1.5 million people.'<sup>[footnote 85](#)</sup>

10.1.3 Information found on MedCOI indicated that psychiatric treatment for Post-Traumatic Stress Disorder (PTSD) was available at the following hospital:

Dhaka Medical College Hospital, Secretariat Road, 1000, Dhaka (public facility):

- Inpatient, outpatient and follow up by a psychiatrist
- Psychiatric treatment of PTSD by means of cognitive behavioural therapy
- Psychiatric treatment of PTSD by means of EMDR (Eye Movement Desensitization and Reprocessing)
- Psychiatric treatment of PTSD by means of narrative exposure therapy
- Psychiatric crisis intervention in case of suicide attempt
- Inpatient, outpatient and follow up by a psychologist<sup>[footnote 86]</sup>

10.1.4 Information found on MedCOI indicated that medications used to treat PTSD was available at the following facilities:

Dhaka Medical College Hospital, Secretariat Road, 1000, Dhaka (public facility):

- Bupropion - psychiatry: antidepressants
- Mirtazapine - psychiatry: antidepressants
- Duloxetine - psychiatry: antidepressants
- Fluvoxamine - psychiatry: antidepressants
- Zolpidem - psychiatry: anxiolytics
- Diazepam - psychiatry: anxiolytics
- Promethazine - psychiatry: anxiolytics

Al Madina Pharmacy, Zahed Plaza, Avenue Road, Gulshan Circle, Dhaka (private facility) and Islamia Pharmacy, Zahid Plaza, Gulshan-2, Dhaka (private facility):

- Trazodone-psychiatry: antidepressants-available but currently experiencing supply problems-time of re-supply: unknown<sup>[footnote 87]</sup>

10.1.5 Information found on MedCOI indicated that psychiatric treatment for severe depressive episodes with psychotic symptoms (psychosis) was available at the following facilities:

Pabna Mental Hospital, Pabna (public facility):

- Inpatient, outpatient and follow up treatment by a psychiatrist
- Inpatient, outpatient and follow up treatment by a psychologist

National Institute of Mental Health, Sher-e-Bangla Nagar, Dhaka (public facility):

- Psychiatric long term clinical treatment (e.g., for chronic psychotic patients) by a psychiatrist and psychiatric long term outpatient treatment by a psychiatrist
- Psychiatric clinical treatment in a closed ward/ setting (not necessarily forced admittance)
- Psychiatric crisis intervention in case of suicide attempt
- Psychiatric forced admittance in case necessary
- Psychiatric treatment in the form of sheltered housing (e.g., for chronic psychotic patients)

Kurmitola General Hospital, Tongi Diversion Road, 1206, Dhaka (public facility):

- Outpatient and follow up by a general practitioner (GP)<sup>[footnote 88]</sup>

10.1.6 Information found on MedCOI indicated that medications used to treat psychiatric treatment for severe depressive episodes with psychotic symptoms (psychosis) was available at the following pharmacy:

Safabi Pharmacy, Shop No# 2,3, Zahed Plaza Gulshan 2, Dhaka (private facility):

- Fluoxetine - psychiatry: antidepressants
- Sertraline - psychiatry: antidepressants; SSRI (Selective Serotonin Reuptake Inhibitors. Note: SSRIs can ease symptoms of moderate to severe depression by increasing levels of serotonin in the brain<sup>[footnote 89]</sup>)
- Venlafaxine - psychiatry: antidepressants; SSRI



- Quetiapine – psychiatry: antipsychotics; modern atypical/ sleeping disorder; sedatives<sup>[footnote 90]</sup>/<sup>[footnote 91]</sup>
- Olanzapine – psychiatry: modern atypical
- Risperidone – psychiatry: antipsychotics; modern atypical<sup>[footnote 92]</sup>
- Domipramine – psychiatry: antidepressants
- Nortriptyline – psychiatry: antidepressants<sup>[footnote 93]</sup>

33. On the basis of the evidence before the Judge it was not made out the Appellant has mental health or any other medical condition that will not be adequately dealt with in Bangladesh, even in light of the limited resources available when compared to those in the UK. This is not a case of an appellant being returned without support in Bangladesh from family or the possibility of further support from his sister or family members in the UK, if required.

34. The medication the Appellant is receiving, Sertraline, is specifically confirmed as being available in Bangladesh.

35. It is also important to note that the Appellant claims that the source of his mental health problems is alleged mistreatment in Bangladesh and what he claims occurred to him, but the Judge made a sustainable finding that those claims lack credibility. Therefore, even if the Appellant has displayed signs of anxiety or depression, which could relate to a number of things including uncertainty regarding his immigration status, the reason he attributes to causation cannot be so.

36. I do not find it made out that any ongoing treatment the Appellant may require will not be available or not accessible to him in Bangladesh. I do not find, in particular, that there is any basis on which the Judge could have found in the alternative on the evidence presented, or that Appellant's medical needs and country information warranted the appeal being allowed pursuant to Article 3 ECHR on medical grounds, or Article 8 ECHR on basis of physical or moral integrity.

37. I therefore find that although the Judge erred in law are not dealing with this issue within the body of the determination, such error is not material as it has not been shown that it would have made any difference to the outcome.

38. Although in brief terms, the Judge refers to the competing arguments relied upon by the parties in support of the Article 8 ECHR claim, and specifically to having balanced those competing arguments against each other, before concluding that the public interest outweighed any points relied upon by the Appellant. I find no error in the Judge's conclusion or the Judge's methodology.

39. As the Appellant has failed to establish legal error material to the decision to dismiss the appeal, the determination must stand.

### **Notice of Decision**

40. Appeal dismissed.

**C J Hanson**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**31 July 2024**