



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000858

First-tier Tribunal No: PA/54901/2022
LP/00865/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 30 December 2024**

Before

DEPUTY UPPER TRIBUNAL JUDGE JOLLIFFE

Between

**MR AA
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Amarjit Sehra, counsel instructed by SD Solicitors
For the Respondent: Ms McKenzie, Senior Home Office Presenting Officer

Heard at Field House on 22 April 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and any member of her family 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 and her family. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. The appellant has been granted permission to appeal the decision First-tier Tribunal Judge Wilding following a hearing which took place on 18 December 2023.

2. Permission to appeal was granted by First-tier Tribunal Judge Fisher on 5 March 2024.
3. The Upper Tribunal regrets the delay in promulgating this judgment. The appeal was heard on submissions alone, with no oral evidence. I have a clear note of the submissions of both parties and also all of the material which was before the First-tier Judge. I reached my decision shortly after the hearing.

Anonymity

4. An anonymity direction was made previously by First-tier Tribunal Judge Wilding and is maintained.

Factual Background

5. The appellant is a national of Bangladesh whose date of birth is 1 January 1968. On 16 December 2020, the appellant made an asylum claim. The basis of that application was that the appellant is a Bangladeshi of Hindu faith, as are his wife and children. He claimed that on 22 September 2020 his daughter had been attacked on her way home and men had threatened to kidnap her, convert her by force to Islam and to marry her off. The police had refused to take action. The attackers came to his house on 3 October 2020 and threatened him and assaulted his daughter. When he reported this to the police, the attackers threatened him. He subsequently fled to India, returned to Bangladesh and then came to Great Britain.
6. That application was refused by a decision dated 25 October 2022. The respondent accepted that the appellant was a Hindu but did not accept that he or his family had experienced problems or been attacked because of that. The respondent considered that his account was not consistent or sufficiently detailed.

The decision of the First-tier Tribunal

7. First-tier Tribunal Wilding was satisfied that the appellant's account was clear and credible and had not been exaggerated. However, he found that the appellant did not have a well-founded fear of persecution because the adverse interest in him was substantially or indeed entirely directed at his daughter rather than at him. She was not a dependent on his claim, and in fact was living with her mother in India. There was little evidence to suggest that the appellant himself would face a risk on return.
8. The judge found that the appellant had not shown that the authorities would not be able to assist him if he returned. He accepted that the background evidence showed there was societal discrimination against Hindus, but did not accept that the appellant would be at risk on return because of his religion. The judge noted that the appellant's evidence was that he had lived his entire life in Bangladesh and felt protected.
9. If that finding was wrong, the appellant could nonetheless relocate within Bangladesh. He had in fact done so in the past, and in any event Bangladesh was a large country within which he could escape the local group who had been interested in his daughter.

The grounds of appeal

10. The appellant sought permission to appeal on 4 grounds, which were that the judge had
 - a. failed to consider relevant evidence in the appeal.
 - b. failed to consider the expert's report and background evidence.
 - c. failed to take in to account the Appellant's vulnerability.
 - d. failed to apply Paragraph 339K of the Immigration Rules - past persecution.
11. Permission to appeal was granted on 5 March 2024 on grounds (a-b) and (d) by Judge Fisher, who commented as follows

Grounds (a) and (b) are inextricably linked. The failure to consider relevant evidence and, in particular, the expert report constitutes an arguable error of law. The Judge accepted that the Appellant was a credible witness in terms of the facts advanced, and so I am not persuaded that there is any merit in ground (c). Ground (d) is arguable. Permission to appeal is therefore granted on grounds (a), (b) and (d).
12. The respondent through her rule 24 response resisted the appeal. It was argued that the judge clearly had taken all of the evidence into account, including the background expert evidence, and had made clear findings that there was no reason to think that the appellant would be at risk on return now.

The error of law hearing

13. Ms Seehra for the appellant made submissions regarding the 1st ground of appeal that the judge had made positive credibility findings at paragraphs 21-22 that he was "*clear and credible*" and that he had not sought to exaggerate his claim. She argued that the finding at paragraphs 29-30 that he is not likely to face threats because of his daughter was inconsistent with the findings about his client's credibility.
14. Ms Seehra argued that in finding at paragraph 30 that there was little evidence to indicate that if returned the appellant would be at risk from the men who had previously threatened his daughter, the judge had speculated.
15. Regarding the 2nd ground of appeal, Ms Seehra drew my attention to the report of Mr Mohammed Solaiman Tushar dated 15 February 2023 at [697-719] of the bundle to argue that it supported the proposition that there was a connection between the men who had threatened his daughter and the ruling party. She emphatically submitted that the report had not been referred to at all.
16. Ms Seehra set out the significance of the report at paragraphs 10-11 of the Grounds of Appeal, emphasising passages which identified the rates at which Hindu families have been attacked, forcibly converted and abducted, have migrated, and wider concerns about rising extremism. The appellant's position about the report was that the judge made no findings on it or assessment of its value, and failed to give any reasons for rejecting it. Ms Seehra submitted that there was no evidence that the police can protect him.

17. The appellant set out the specific sections of documentary evidence which were relied on at paragraph 13 of the Grounds of Appeal with page references. They will not be repeated here.
18. Ms Seehra touched on the appellant's vulnerability, but properly acknowledged that was outside the scope of the permission to appeal. She addressed the last ground of appeal briefly, and submitted that the judge should have had regard to paragraph 339K of the Immigration Rules, which provides that past persecution/serious harm is to be regarded as a "*serious indication*" that their fear of persecution is well-founded, unless there are good reasons to think that the persecution/serious harm will not be repeated. She concluded that the appellant did not know why he had lost the appeal, and that that showed the error of law.
19. For the Respondent, Ms McKenzie submitted that the judgment had clearly taken account of all the evidence, including the report of Mr Tushar, and that that was made plain by the words of paragraph 20 of the judgment which explicitly stated "*I have carefully considered all of the evidence in the round. I have considered the oral and written documentary evidence presented, as well as the background material and the relevant sections of that provided by the two advocates*", before then going on to consider specific areas of factual dispute.
20. Ms McKenzie submitted that it is not necessary for a judge to recite every piece of evidence in a case, nor to go through every reference to the evidence for example in counsel's skeleton argument. The judge had made clear and uncontested findings that the object of persecution was in fact the appellant's daughter rather than the appellant, and that he was not at risk himself.
21. Regarding the 4th ground of appeal, she placed reliance on the last part of paragraph 339K i.e. that while past persecution/serious harm should be regarded as an indicator of future, that assumption could be displaced: "*...unless there are good reasons to consider that such persecution or serious harm will not be repeated.*" The good reason in this case was that the object of persecution was the appellant's daughter, rather than the appellant himself.

Decision on error of law

22. In order to determine this appeal, the starting point is a thorough and careful reading of the Judge's judgment.
23. The Judge directed himself to the burden and standard of proof, and set out the parties' cases in turn. There was an issue about the appellant's credibility, and the Judge found him to be clear and credible, and not to have exaggerated his case. He had experienced some difficulties due to his Hindu faith, but the Judge made clear findings at paragraph 23 that
"the appellant felt that he could safely do this [i.e. participate in the group Feni Sanatan], and indeed as he acknowledged in his interview there were no problems with this because he had the assistance of the police. I do not consider this an inconsistency, more a reflection on that whilst some people may have been angry at him, the police would protect him."
24. Having found that the appellant was credible, the Judge went on to conclude that the real risk was to the appellant's daughter - see paragraphs 24-26 - and in response to this, the family had fled to India.

25. The Judge's core finding at paragraphs 29-30 was that

"...the experience of the appellant in Bangladesh and in particularly *the circumstances which drove him and his family to flee the country were down almost entirely to the interest in his daughter. She is not a dependent on this claim, she is not even in the UK. She fled Bangladesh and lives in India with her mother. I have not been given any information about their circumstances there, but it remains the case that the only person being considered for return to Bangladesh from the UK, and as part of this appeal, is this appellant.*

30. *Absent his daughter, in my judgment, the appellant is unlikely to face continued issues or threats in Bangladesh on his return.* [emphasis added]."

26. That is the essence of the Judge's judgment - while the appellant's daughter might be at risk if she were returned to Bangladesh, he is not at risk.

27. Given the grounds of appeal, it is also relevant to note the Judge's comment at paragraph 32 of the judgment in which he referred to the numerous citations concerning the background material which Ms Seehra had made. The Judge stated in terms that he had considered them. However, he did not think they showed a risk to the appellant from his status as a Hindu.

28. The 1st and 2nd grounds of appeal are that the judge failed to take account of relevant evidence, and that he specifically failed to take account of the background evidence. Regarding the 1st ground, Ms Seehra specifically submitted that because the appellant was credible, the judge should not have found that it was his daughter and not him who faced risk on return.

29. However, this is to misunderstand the reasoning of the judgment. The Judge cannot be criticised for accepting credibility and accepting the appellant's own evidence that it was his daughter who was at risk.

30. It is clear from paragraphs 20 and 32 that the judge considered all of the material before him, and he specifically considered the materials which had been cited by Ms Seehra. The Upper Tribunal emphasised in *Budhathoki (reasons for decisions)* [2014] UKUT 00341 (IAC) the importance of judgments focussing on the real issues in a case and not going through every detail.

31. Since then the President of the First Tier Tribunal has emphasised the desirability of short and focussed judgment over long and unfocussed ones.

32. The Judge's judgment in this appeal is a good example of the benefits of the first category in terms of clarity and brevity.

33. Ms Seehra identified various passages in the background evidence and submitted that the judge unlawfully failed to consider them. One example of this is set out at paragraph 10 of the appellant's skeleton argument concerning the role of the Chhatra league. Ms Seehra referred to paragraph 36 of the report of Mr Tushar and argued that the judge had failed to consider it. It showed that "*the Chhatra League was a powerful organisation associated with murdering civilians and it was associated with the ruling Awami League.*"

34. Paragraph 36 of the report responds to a question put by the appellant's solicitors where Mr Tushar is asked to comment on

"The plausibility of the appellant's claim is that the appellant police did not take any action against the perpetrators because they are powerful being backed by Chhatra League and they are powerful Muslims [sic]".

35. Mr Tushar's response is that

"36. Bangladesh Chhatra League (BCL) is the powerful organization in Bangladesh. Just between 2009 and 2014, 33 students were killed in different educational institutions at the hands of BCL cadres 15 of them were their own activists. At least 1,500 students got seriously injured in 432 clashes perpetrated by BCL in the first five years of AL's rule. Between 2014 and 2018, 129 students have been killed by BCL cadres. In 2018 alone, BCL activists killed 31 people students and civilians²⁶. As the Appellant filed a case against criminals and they are backed by the BCL, Police may not take any action against them since Bangladesh Awami League is in power since 2009, the mother Organisation of the BCL."

36. This is expressed in very general terms. However, it is difficult to see how it could affect the Judge's reasoning in relation to the appellant and his specific case, and in particular it is hard to see how it could affect the core finding identified above that it is the appellant's daughter who may be at risk on return to Bangladesh, but not the appellant himself. There is no basis for saying that any failure to consider this passage amounted to an error in law.

37. In any event, as explained above, the Judge stated in terms that he had considered all the documents.

38. Turning to the 4th ground of appeal, the full text of paragraph 339K of the Immigration Rules states that

The fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.

39. At paragraph 23, the judge made a finding that the appellant had experienced "difficulties" due to being a Hindu. However, he did not go further than that, and he also noted that the appellant had been assisted by the police. He stated in terms at paragraph 29 that "In my judgment the appellant does not have a well-founded fear of persecution".

40. In any case, the Judge's core finding was that it is the appellant's daughter who might be at risk if returned to Bangladesh and not the appellant himself.

41. Accordingly, the appeal on the 4th ground also falls away. There was no error of law, and the judge directed himself properly.

Conclusions

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

Notice of Decision

The appeal is dismissed on asylum/humanitarian protection grounds.

J Jolliffe

Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 December 2024

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

J Jolliffe

Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 December 2024

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email