



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2024-001635

First-tier Tribunal No:
PA/52471/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 20th of September 2024

Before

UPPER TRIBUNAL JUDGE MAHMOOD

Between

ET
(ANONYMITY ORDER MADE)

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Appellant

Representation:

For the Appellant: Mr A Islam, instructed by CB Solicitors

For the Respondent: Ms McKenzie, Senior Home Office Presenting Officer

Heard at Field House on 4 September 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, a national of Cameroon, appeals with permission against the decision of First-tier Tribunal Judge Sangha promulgated on 18 March 2024, to refuse his protection and human rights claim.
2. The Appellant's claim, in summary, was that he was at risk on return to Cameroon because of his political opinion in respect of opposition to the Government of Cameroon. The Appellant had also relied on Article 8 ECHR.
3. A hearing took place at Birmingham on 6 March 2024. The Judge heard evidence and considered the parties respective bundles of documents. The Judge made various adverse findings of fact against the Appellant and dismissed the Appellant's appeal on both protection and human rights grounds.
4. The Judge concluded that he was not satisfied as to the veracity or truth of the claim, and he therefore dismissed the appeal. At paragraph 20 the Judge referenced that there were numerous inconsistencies in the evidence presented by and on behalf of the Appellant, including in an Affidavit from one Mr Tanga. The Judge was concerned about a death certificate relating to the Appellant's father. The Judge concluded at paragraph 43 that he did not accept that the Appellant's father was as politically active in Cameroon as claimed by the Appellant. The Judge noted the previous findings made at an earlier hearing, which he used as a starting point for his decision. The Judge further dismissed the appeal based on Article 8 ECHR, noting the limited private life established by the Appellant since his arrival in the United Kingdom in 2018.
5. The Appellant sought permission to appeal against the Judge's decision. In summary the grounds contend that the Judge erred by misunderstanding the evidence. The Appellant contends that the Judge was wrong to make adverse findings because the Judge made a mistake about the Appellant's father's death and in respect of Mr Tanga's affidavit.
6. Permission was granted on this limited ground only on 29 April 2024 by the First-tier Tribunal and not on any other grounds.
7. There was no response from the Respondent to the grounds of appeal pursuant to rule 24 of the Tribunals Procedure (Upper Tribunal) Rules 2008.
8. At the hearing before me today, Mr Islam on behalf of the Appellant said he relied on the grounds of appeal. He said that the Judge had completely misunderstood the evidence. The Appellant had not said that his father died in 2019. It was in 2023 that the confirmation had come through. I was referred to paragraphs 29, 36, 37, 43 and 44 of the decision. I was invited to find that there was a material error of law in the Judge's decision.
9. Ms McKenzie said that permission to appeal was granted on only one ground and that was whether there was a misinterpretation at paragraphs

24 and 25 of the determination. Ms McKenzie said she accepted that the judge has misinterpreted the evidence and had erred, but she said it was not material.

10. Ms McKenzie said she had looked at the determination as a whole and the Appellant's claim was a re-argument of the claim that was previously decided upon and dismissed. Paragraph 43 was sound. I was taken to various other paragraphs in the decision. Ms McKenzie said that despite the Judge's misunderstanding he was not assisted, and it did not specify the cause of death. The Judge had noticed other inconsistencies too. She also highlighted that the judge did notice other inconsistencies at paragraphs 24 and 25 in respect of the Appellant's father's activities. I was invited to conclude that there was no material error of law.
11. Both parties agreed that if I was to find that there was a material error of law then because the matter relates to credibility, then I ought to remit the matter to the First-tier Tribunal.
12. Having considered the rival submissions, it is clear to me that the Judge has indeed misinterpreted the evidence about the death of the Appellant's father. Ms McKenzie was correct to make that observation and to state that there is therefore an error of law in the Judge's decision.
13. The real issue is whether the Judge's error is material. In my judgment, because the death of the Appellant's father is a relatively central theme of the Appellant's claim and was the foundation for much of the assessment of the Appellant's credibility, the Judge's error is therefore a material error. The whole decision is infected by the error in respect of the protection claim.
14. Whilst other adverse credibility findings were made by the Judge, I cannot be satisfied that the Judge might not have made those findings if he had not made the error about the death of the Appellant's father. The other adverse credibility findings, in reality, build upon the error about the death of the Appellants' father.
15. In the premises, I conclude that there is a material error of law in the Judge's decision and that it must be set aside for a re-hearing.
16. I canvassed with the parties the appropriate disposal of this case in terms of further consideration of the appeal.
17. I have applied *AEB* [2022] EWCA Civ 1512 and *Begum (Remaking or remittal) Bangladesh* [2023] UKUT 00046 (IAC) and have carefully considered whether to retain the matter for remaking in the Upper Tribunal in line with the general principle set out in Paragraph 7 of the Senior President's Practice Statement. I take into account the history of this case, the nature and extent of the findings to be made. In considering paragraph 7.1 and 7.2 of the Senior President's Practice Statement and given the scope of the issues and findings to be made, I consider that it is appropriate that the First-tier Tribunal remake the decision.

18. There was no appeal against the Article 8 ECHR decision and no permission granted in respect of the Article 8 ECHR decision and so that remains dismissed._

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside in respect of the protection claim only.
2. I remit the matter to the First-tier Tribunal for re-hearing in respect of the protection claim. The findings in respect of the protection claim are set aside.

Signed
Abid Mahmood
Judge of the Upper Tribunal

Date: 4 September 2024