



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

Case No: UI-2024-002313
First-tier Tribunal No:
PA/52427/2021
IA/08387/2021

THE IMMIGRATION ACTS

Decision and Reasons Issued:
On the 08 August 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE DOYLE

Between

MSC
(ANONYMITY ORDER MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Jarro, counsel, instructed by Legit, solicitors

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

Heard at Field House, on 2 August 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. I make an anonymity direction because this appeal arises from the appellant's protection claim.

2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge J C Hamilton, promulgated on 01/09/2023, which dismissed the Appellant's appeal on all grounds.

Background

3. The Appellant is a national of Bangladesh who was born on 1st August 1984. The Appellant claimed asylum on 6th August 2019. On 14 May 2021 the respondent refused his claim for international protection.

The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge J C Hamilton ("the Judge") dismissed the appeal on all grounds.

5. The Appellant lodged grounds of appeal, and, on 5 June 2024, Deputy Upper Tribunal Judge Chapman granted permission to appeal. She said

The grounds of appeal assert that the FtT materially erred in law: (i) in failing to have adequate regard to material evidence *viz* four letters stating that the Appellant had been dismissed from four separate jobs due to his political activism and beliefs and the FtT further failed to give adequate reasons for his conclusions; (ii) by irrationally finding inconsistencies in his evidence where none existed, in relation to the start of his problems with Awami League at the time of the elections in December 2008 and (iii) in failing to apply the accepted facts of the case to the background evidence and then consider the risk to the Appellant in light of those factors, leading to an irrational conclusion and/or inadequate reasoning on risk.

The grounds of appeal, which are particularised, raise arguable errors of law in the approach of the FtT to the evidence and consequently to the safety of his findings.

The Hearing

6. Mr Walker, for the respondent, told me that it is a matter of agreement that the decision contains a material error of law. He conceded that the Judge failed to have regard to the four letters which form material evidence about the reasons for termination of the appellant's employment.

7. Mr Jorro moved the grounds of appeal, then both Mr Walker and Mr Jorro joined in telling me that the Judge makes no specific findings about material

documentary evidence, because the four letters relied on by the appellant are acknowledged by the Judge, but not analysed. Mr Walker agreed that the remaining grounds of appeal have some merit.

8. It is accepted that there is an inadequacy of fact finding, which is a material error of law.

Analysis

9. At [2] of the decision, the Judge confirms that he has all of the documentary evidence. At [23] and [24] of the decision the Judge lists the documentary evidence. At [23(4)] the Judge refers to four letters which says that the appellant lost his employment because of his political activities.

10. At [11] of the decision the Judge records that the respondent accepts that the appellant has been affiliated with CS (the student branch of Jamaat-e-Islami).

11. The Judge's findings of fact lie between [40] and [81] of the decision. There, the Judge analyses the expert report the appellant relies on; he analyses the respondent's CPIN; he considers the reasons for refusal letter; he considers the appellant's oral evidence and the statements provided by the appellant's parents, before turning his attention to the evidence of the appellant's political activity in the UK.

12. At [68] the Judge summarises his findings and, at [68(3)] the Judge finds that the appellant has not been dismissed from his employment because of his political affiliation. That finding stands entirely on its own - and is unexplained.

13. The Judge reaches conclusions without analysing the evidence which led him to his conclusion. The Judge does not explain how he reached the conclusion recorded at [68(3)]. The Judge does not give adequate reasons for rejecting the four letters which say that the appellant lost employment because of his political activities, which is an important strand of evidence. The Judge's detailed decision is undermined by a material error of law because there is an inadequacy of fact finding.

14. Because the decision is tainted by material errors of law it is set it aside. It is a matter of agreement that a fresh hearing is necessary before the First-tier Tribunal.

Remittal to First-Tier Tribunal

15. Under Part 3 paragraph 7.2(b) of the Upper Tribunal Practice Statement of the 25th of September 2012 the case may be remitted to the First-tier Tribunal if the Upper Tribunal is satisfied that:

(a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for that party's case to be put to and considered by the First-tier Tribunal; or

(b) the nature or extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2, it is appropriate to remit the case to the First-tier Tribunal.

16. I have determined that the case should be remitted because a new fact-finding exercise is required. The political situation in Bangladesh has changed since the date of the First-tier Tribunal's decision. None of the findings of fact are to stand and a complete re-hearing is necessary.

17. The appeal is remitted to the First-tier Tribunal sitting at Hatton Cross to be heard before any First-tier Judge other than Judge J C Hamilton. A Bengali interpreter will be required.

Decision

The decision of the First-tier Tribunal is tainted by a material error of law.

The Judge's decision promulgated on 1 September 2023 is set aside.

The appeal is remitted to the First-tier Tribunal to be determined of new.

Signed **Paul Doyle**
August 2024
Deputy Upper Tribunal Judge Doyle

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