



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-002606

First-tier Tribunal No: PA/50738/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 3rd of October 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE L MURRAY

Between

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(ANONYMITY ORDER MADE)

and

Secretary of State for the Home Department

Appellant

Respondent

Representation:

For the Appellant: Mr Spurling of Counsel instructed by Elder Rahimi Solicitors

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

Heard at Field House on 20 September 2024

DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Chohan promulgated on 5 March 2024.
2. In the light of submissions by both parties and the agreement by the Respondent that the judge erred in failing to apply the case of HB (Kurds) Iran CG [2018] UKUT 00430 (IAC) when assessing the risk to the Appellant in relation to his sur place activities, I conclude that the decision of the First-tier Tribunal involved the making of an error law for the reasons set out in Grounds 1-6.

3. As it was agreed that none of the findings of fact can be preserved, the appeal will have to be heard again and accordingly with reference to paragraph 7.2 of the Practice Statement and having considered the applicable principles as set out in of AEB v SSHD [2022] EWCA Civ 1512 and Begum (Remaking or remittal) Bangladesh [2023] UKUT 00046 (IAC) it is appropriate to remit it to the First-tier Tribunal because of the extent of necessary fact-finding.
4. The Upper Tribunal may give an oral decision under Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008. I found that there was an error of law in the decision of the First-tier Tribunal for the reasons set out in the Grounds and conceded by the Respondent. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision unless the parties have consented to the Upper Tribunal not giving written reasons. The parties gave their consent at the hearing.

Decision:

1. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
2. I set aside the decision
3. I remit the decision for a fresh hearing on all issues before any Judge other than Judge Chohan.

Signed

L Murray

Judge L Murray
Deputy Upper Tribunal Judge

1 October 2024