



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/06534/2018

THE IMMIGRATION ACTS

Heard at Field House

On 9 October 2018

**Decision & Reasons
Promulgated
On 23 October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

**T E Y
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Smith, Counsel.

For the Respondent: Mr L Tarlow, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant is a citizen of Eritrea who made an application for international protection. It was refused and he appealed and following a hearing, and in a decision promulgated on 17 July 2018, Judge of the First-tier Tribunal Manyarara dismissed the Appellant's appeal. The Appellant had claimed to be a refugee on the basis that he would be at risk if returned to his country of origin consequent upon his political opinion.

2. The Appellant sought permission to appeal. It was granted on 15 August 2018 by Judge of the First-tier Tribunal Andrew. Her reasons for so doing were:-
 - “1. The Appellant seeks permission to appeal, in time, against a decision of the First-tier Tribunal (Judge Manyarara) who, in a determination promulgated on 17th July 2018 dismissed the Appellant’s appeal against the Respondent’s decision to refuse to grant international protection.
 2. I am satisfied that there are arguable errors of law in the decision. The Judge has not considered whether, if returned to Eritrea, the Appellant would be liable to be recalled to military service. Further, the Judge has not considered the further country information supplied in relation to the likelihood or not of the Appellant having completed his military service.”
3. Thus, the appeal came before me today.
4. At the outset Mr Tarlow invited me to remit this appeal to the First-tier for a de novo hearing. He conceded that for the reasons shown at paragraph 2 of Judge Andrew’s decision to grant permission to appeal the Judge had materially erred. Inevitably Ms Smith did not seek to argue against this.
5. I find that Mr Tarlow acted both properly and fairly in the circumstances. The Judge has materially erred and omitted to deal with crucial aspects of this appeal and particularly so where the Appellant’s age places him at risk of military service in his country of origin.

Notice of Decision

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge Manyarara.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed
2018

Date 15 October

Deputy Upper Tribunal Judge Appleyard