



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

Appeal Number: PA/09261/2017

THE IMMIGRATION ACTS

Heard at Field House

On 10th October 2018

Decision & Reasons

Promulgated

On 6th November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

**MZR
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Ahmed, of Lincoln's Chambers Solicitors

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Bangladesh, appealed to the First-tier Tribunal against a decision of the Secretary of State dated 5th September 2017 refusing his application for asylum in the UK. First-tier Tribunal Judge Baldwin dismissed the appeal in a decision promulgated on 2nd July 2018. The Appellant now appeals, with permission, to this Tribunal.
2. The background to this appeal is that the Appellant claimed to have arrived in the UK on 6th November 2006 with a two year working holiday visa granted on 24th August 2006. He was encountered on 8th September

2016, questioned and detained, and on 29th November 2016 he claimed asylum based on his claimed involvement with the Bangladesh National Party (BNP) in Bangladesh. The Appellant claimed that he had joined the party in 2003 in Bangladesh and that he was involved in protests in October 2006 and left Bangladesh on 6th November 2006. He claims that a First Information Report (FIR) was issued in his name in 2007 in connection with an allegation that he burned a vehicle during protests on 26th October 2006, charges which he claims are false. The Appellant further claimed that he has been involved in *sur place* activities with the BNP in the UK.

3. In the reasons for refusal letter the Secretary of State accepted that the Appellant is a national of Bangladesh. However, the Secretary of State did not accept that the Appellant is a member of the BNP or that he was involved in events in October 2016 in Bangladesh as claimed. The Secretary of State also stated that the FIR which the Appellant had submitted had been referred to Ralon for verification and were found to be non-genuine. The Secretary of State considered the significant delay before the Appellant claimed asylum. The Secretary of State rejected the Appellant's claim that he is a member of the BNP, that he has been persecuted for being a member of the BNP and that the police have a case against him. The respondent rejected the Appellant's claim that he has a well-founded fear of persecution for his political opinion in Bangladesh.

Error of Law

4. The Grounds of Appeal are lengthy and the grant of permission to appeal too is lengthy. Mr Ahmed submitted a ten-page skeleton argument for the hearing which largely repeats the Grounds of Appeal. Although the grounds are lengthy Mr Ahmed focused on a number of those grounds at the hearing which narrowed them somewhat.
5. However I deal with the grounds as they are set out in the application for permission to appeal. In the first ground it is contended that the judge appears to have found the Appellant's witness, Mr Raja, to be credible. It is contended that Mr Raja's evidence goes to the heart of the Appellant's case that the Appellant is the treasurer of the Greater London branch of the BNP. It is contended that the First-tier Tribunal Judge erred in not giving due weight to Mr Raja's evidence. In the Rule 24 response and at the hearing Mr Bramble submitted that the judge properly took into account Mr Raja's evidence.
6. The judge dealt with Mr Raja's evidence in the following way. He noted at paragraph 17 that Mr Raja said that he was the secretary general of Greater London branch of the BNP and that the Appellant had been promoted to treasurer, attended and participated in its programmes and was a dedicated and passionate activist. The judge addressed the evidence of Mr Raja at paragraph 28 where he states "Mr Raja may possibly have been duped into believing the Appellant was passionate in his BNP leanings when he was in Bangladesh but he was honest enough to

concede that he had never met the Appellant before 2008/2009". The judge went on to say that Mr Raja would have been someone to whom the Appellant could have asked advice about asylum and said:

"If Mr Raj genuinely believed the Appellant would be at real risk in Bangladesh it would be astonishing if he had not advised him long ago to claim asylum - yet there is no suggestion that he ever did so. It would seem highly unlikely that the Appellant ever mentioned to him before he claimed asylum that he had fears about returning to Bangladesh. That is a further reason for doubting the genuineness of the core of the Appellant's claim."

7. In my view the judge clearly dealt with the evidence from Mr Raja. The judge clearly considered the evidence from Mr Raja in light of the judge's findings that the Appellant has recently become involved with the BNP following his arrest and detention. In my view the conclusions reached by the judge in relation to Mr Raja demonstrate that he did in fact consider that evidence and reached conclusions open to him on the basis of that evidence. The submission that the judge failed to give due weight to the evidence of Mr Raja is misplaced. The weight to be attached by the judge to a piece of evidence was a matter for the judge himself.
8. Paragraph 3 of the grounds assert that the judge failed to give due weight to the video and photographic evidence. However the judge dealt with those matters at paragraph 28 and reached conclusions open to him in relation to the video and photographic evidence.
9. Paragraph 5 of the grounds contend that the Appellant's activities in the UK and his wish to continue to express his political opinions in Bangladesh would give rise to a real risk of future persecution. However the judge expressly considered this at paragraph 29 where, after considering all the evidence, the judge said that it would not be easy for the Bangladeshi authorities to identify the Appellant visually or to make connections through his name given that the Appellant made it clear that there was no other incident in Bangladesh on which he could rely. The judge said:

"I do not believe for one moment that the Appellant would sustain his recent burst of UK political activity in Bangladesh and that that would not be out of fear but, rather, because the timing of it strongly suggests that the Appellant was simply looking for another way in which he might be allowed to stay in the UK." [29]
10. Therefore, at paragraph 29 the judge looked at the individual circumstances of this Appellant as found by him and considered whether his circumstances would put him at risk. This approach is consistent with the background evidence relied upon by Mr Ahmed at the hearing. He referred to the Country of Origin Information Report at page 116 of the Appellant's bundle and in particular to 1.4 of the Country Information and Guidance on Bangladesh: Opposition to the Government February 2015 which was before the judge which states:

"Membership or perceived support of groups opposed to the current government does not of itself give rise to a well-founded fear of

persecution in Bangladesh, but may do so depending on the individual circumstances of the applicant.”

11. It is contended at paragraph 6 of the grounds that the judge misdirected himself in relation to the letter from the Appellant’s advocate at paragraphs 25 and 26 of the determination. It is contended that Mr Matin is a qualified lawyer in Bangladesh and that the contents of his letter are consistent with the background evidence submitted. Paragraph 7 goes on to say that the judge was wrong to doubt a member of the bar in Bangladesh.
12. However the judge took into account the evidence from Mr Matin at paragraphs 24, 25 and 26 of the decision. This is in the context of the Secretary of State’s assertion that checks had been undertaken in relation to the FIR report on behalf of the Secretary of State. The judge compared the evidence from Mr Matin with the evidence from the Secretary of State as to the registration of the FIR report and decided, for the reasons set out in paragraph 25, that he preferred the evidence of the Secretary of State and was satisfied that the FIR submitted by the Appellant was not genuine. The judge pointed to further deficiencies in Mr Matin’s letter, in particular noting that Mr Matin did not state when the Appellant first sought his help and that the Appellant himself had failed to state in his interview that he had apparently retained a lawyer since 2007. In my view the judge was entitled to consider all of this evidence and to reach the conclusions he did in relation to the letter from the Appellant’s lawyer in Bangladesh.
13. At the hearing Mr Ahmed contended that the judge erred in his approach to the evidence from Mr Matin in the context of the background evidence at page 74 of the Appellant’s supplementary bundle which states that around 50,074 cases have been filed against 1,191,449 BNP activists. He contended that it is for this reason that the local police would deny that any case had been lodged against the Appellant. However in my view the judge engaged with this issue at paragraph 25 and reached a conclusion open to him having considered the evidence from the Secretary of State and from Mr Matin.
14. It is asserted at paragraph 8 of the grounds that the judge erred in his approach to social media at paragraphs 24 and 26 of the decision. However the judge dealt with that issue at paragraphs 28 and 29 and concluded that the Appellant could not be identified through the photographs or a video. This was a conclusion open to the judge on the basis of the evidence.
15. At paragraph 10 of the grounds a number of apparent factual errors are identified. It is stated that the judge was mistaken at paragraph 24 in saying that the Appellant had been unable to name the MP and Lord he had met. At the hearing Mr Ahmed pointed to a photograph of the Appellant with Lord Qurban at page 59 of the Appellant’s bundle. The criticism made by the judge of the Appellant’s evidence was that the Appellant had not given the name of the MP and the Lord in his asylum interview. Mr Ahmed was unable to point to anywhere in the asylum

interview where the Appellant had named the MP or Lord. Therefore the judge made no factual error at paragraph 24 in relation to this issue.

16. It is contended that at paragraphs 20, 26 and 28 of the decision the judge appears to have concluded that the Appellant submitted recent and post-asylum claim evidence whereas it is contended that the photographs submitted were from 2014, 2015, 2016, 2017 and 2018 and that the video contains demonstrations which took place in 2015, 2016, 2017 and 2018. It is contended that the Appellant became a member of the UK BNP well before he claimed asylum.
17. However at the hearing before me Mr Ahmed accepted that many of the photographs in the bundle are not dated. The photographs in the bundle have written commentary made by the Appellant. In any event there is no objective verification for even those which are dated to indicate that the events occurred on the dates claimed. The judge also obviously considered a number of general credibility findings, so for example at paragraph 27 when considering the Appellant's alleged political activity in the UK, the judge considered the Appellant's delay in claiming asylum and the circumstances in which he made his claim. The judge found at paragraph 28:

"I do not believe for one moment that he became involved in any way politically in the UK until comparatively recently, though it is possible he had started to prepare the ground for making the claim before his detention propelled him into getting himself photographed and filmed as much as he possibly could during 2017 and the first few months of 2018."

It is clear therefore that the judge did not make a definitive finding that the Appellant only became involved with political activity in the UK after claiming asylum. It is clear the judge considered that it may have been for a period of time before his arrest. In these circumstances in my view the judge did not make any material error in considering this issue.

18. Paragraph 13 of the grounds advances a number of further alleged errors in the decision. These relate to the treatment of the background evidence. However the judge made clear findings that the Appellant was not credible and accordingly the background evidence was not relevant in this context.
19. At the hearing Mr Ahmed contended that the judge had erred at paragraph 28 where he said about the evidence of the Appellant's activities in the UK "At no time can one hear him giving a speech and his most active role would appear to have been using a megaphone on occasions to shout out one or two words for fellow demonstrators to return". Mr Ahmed submitted that this was an error of fact based on the photographs in the Appellant's bundle and supplementary bundle which he claims showed the Appellant making speeches. However the photographs show the Appellant as part of a crowd and in my view none of the photographs conclusively show that the Appellant was making speeches. Accordingly I has not been established that that the judge made an error of fact at paragraph 28 as claimed.

20. At the hearing Mr Ahmed also contended that the judge erred in finding that the Appellant's post as treasurer for the Greater London area is not a public-facing one [26] whereas in his submission attending public meetings would involve a public element. However I also note that at paragraph 26 the judge said that if the Appellant did indeed hold the post of treasurer for the Greater London area that such a post is not public-facing and would appear to be largely a venue booking and bookkeeping role. The judge went on to say:

“Furthermore, the Appellant has provided no letter-headed notepaper recording his function, something one can reasonably assume he would need in order to write to members about overdue subscriptions, booking venues etc. Nor has any minute of his appointment been provided.”

The judge found that the Appellant was unable to offer any explanation for his failure to provide any corroborative evidence in relation to his role. In my view these conclusions were open to the judge on the evidence and no material error of fact has been disclosed.

21. At the hearing Mr Ahmed further submitted that the Appellant had given evidence in relation to the position he held in Bangladesh and he relied upon paragraphs 71 to 72 of the Appellant's bundle, this is a translation of a document relating to Bangladesh Jatiotabadi Chatrodal, which he claims names the Appellant as general secretary. He contended that the judge failed to take this piece of evidence into account. However the judge did refer to this evidence at paragraph 24 where he noted that there was no evidence of the Appellant being general secretary of the local student wing in Bangladesh “beyond the handwritten list of people in the local group he said had been defunct now for a decade”. That refers to the handwritten list at paragraph 73 of which the document at paragraphs 71 and 72 is a translation. Accordingly that criticism has not been made out.
22. As set out above in my view none of the grounds put forward have been made out. The judge addressed all of the evidence and reached conclusions open to him on that evidence. The grounds disclose no material error of law.

Notice of Decision

The decision of the First-tier Tribunal does not contain any material error of law.

The decision of the First-tier Tribunal stands.

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

Date: 2nd November 2018

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT
FEE AWARD

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

Signed

Date: 2nd November 2018

Deputy Upper Tribunal Judge Grimes