Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: PA/10055/2017
PA/10057/2017
PA/10056/2017

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 4 June 2018	**On 20 June 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MR A S TUFIQUE EALLHI
MRS SABRINA RAWSHAN ARA
MR A M E
(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr M K Islam, Solicitor instructed by Taj Solicitors
For the Respondent: Mr L Tarlow, Senior Presenting Officer

DECISION AND REASONS

1. The first Appellant, a national of Bangladesh, date of birth 1 January 1985, together with his wife the second Appellant, and son, the third appellant, date of birth 11 September 2016 as his dependants made a claim that he was at real risk on return because of his past and present political support for the BNP but in particular when in Pakistan he had supported and been an active participant in the student wing of the

BNP, namely the Chattra Dal. He claimed also to have been active in his membership of the BNP in the UK.

2. The Appellant had claimed and set out in interview as well as in his statement of evidence how, in the past, he had been actively involved in the student wing and more particularly had been attacked and involved in the conflicts which are by no means uncharacteristic of disputes between the student wing of the BNP and the Awami League, (AL). The Judge set out the basis of the first Appellant's claim and it seemed to me on the face of it there was not really any claim of real risk to the second or third Appellants other than consequential upon that faced as claimed by the first Appellant. The Judge decided that he rejected the credibility of the first Appellant's claim and similarly he rejected the need for Humanitarian Protection as well as a claim based upon Article 8 ECHR rights.

3. First-tier Tribunal Judge Ford's (the Judge) decision was dated 2 January 2018. Permission to appeal was sought and granted by First-tier Tribunal Judge Froom on 2 February 2018 in which Judge Froom said as follows:

> "3. The grounds seeking permission to appeal argue the FtTJ erred by overlooking parts of the first Appellant's evidence. In particular, contrary to the FfTJ's record of the claim in paragraph 20(a) of her decision, it was the first Appellant's claim that he had been attacked and injured by members of the AL (in 2009).
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> 4. This is arguable. The first Appellant described being attacked at interview (pages C20-21) and also in his appeal statement at paragraph 22. It is arguable the FtTJ overlooked this when assessing the risk on return that the first Appellant may be targeted by the AL. She appears to have assessed the risk on the basis the first Appellant had not claimed to have been attacked."

4. There is no Rule 24 response by the Secretary of State.

5. I have been helpfully taken to the documents that form the basis of the evidence before both the Secretary of State and the Judge in dealing with this matter. It is clear as can be and as is properly accepted by Mr Tarlow that the Judge did not refer to the events claimed in 2009 in the attack upon the first Appellant. Essentially it was said that, looked at in the round, the Appellant's claim as to his past activities and current activities did not in the Judge's view identify a real risk on return. Therefore, even if taken at its highest, the Appellant had been attacked in 2009 the decision on risk on return would essentially be no different. Therefore the risks posed to the other Appellants would not be material either.

6. The Judge had some background evidence relating to student political groups and violence and the role played by the police in Bangladesh not least in the context of course of what later transpired after the Appellant had come to the United Kingdom bearing in mind how power is now held in Bangladesh.

7. I therefore have essentially been asked to recognise that the Judge in her findings at paragraph 20(a)-(g) simply has not carried out a fair assessment of the claims of risk on return. I did not have the advantage of having heard the Appellant's evidence or the time that the Judge had to assess the totality of the claim including the wider issues not just of what may have been said on paper but, more importantly, what other factors the Judge took into account in assessing the Appellant's claim. It seemed to me commonsense and trite law that an Appellant as indeed any other party to proceedings is entitled to know why the centrepiece of the claim has failed. In this case it is essentially that the Appellant claims that so many years after 2009 he would still be of interest to someone in the Awami League who was aware of his politics both in Bangladesh and perhaps whilst he has been in the United Kingdom in terms of his support for the BNP.

8. It seemed to me that what has happened is that this mistake and omission which the Judge made, which is admitted, has been lit upon to found a claim in its generality that the Judge failed to properly address the risk of persecution or of proscribed ill-

treatment contrary to the Refugee Convention or alternatively the need for Humanitarian Protection. I conclude that the error needs to be looked at in the context of the whole decision and no other particular element is relied on other than the potential significance of his political activities in the United Kingdom which is raised in the grounds of appeal.

9. For my part it seemed to me that if I was writing the decision I would have done so on the evidence as a whole and in the context which the Judge did address. It is clear the Judge did not find the Appellant's claim credible and rejected it for the reasons that he gave. It is regrettable that he omitted to refer to the events claimed in 2009 although what view he might have taken of them I do not speculate but it seems to me, read as a whole, the decision is sufficient and gave adequate reasons why the claim fails.

10. I accept Mr Islam's point about the error in paragraph 20(a) of the decision but it seems to me that looking at it in the round the answer is that the Judge had done enough and therefore was entitled to reach the view that there was no likely risk to the Appellant on return. I bear in mind that the Judge was not essentially being faced with a full fledged refugee *sur place* claim so much as the concern and fear that the Appellant may generally hold as to the risks he faces on return. Those have failed and it seemed to me the grounds in the circumstances similarly fail and that concludes this matter.

NOTICE OF DECISION

The appeal is dismissed.

No anonymity direction is made.

Signed Date 15 June 2018

Deputy Upper Tribunal Judge Davey