



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

Appeal Number: PA/12050/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 12th November 2019**

**Decision & Reasons
Promulgated
On 18th November 2019**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**MAW
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. M Biggs, Counsel instructed by Diplock Solicitors

For the Respondent: Ms. S Cunha, Home Office Presenting Officer

DECISION AND REASONS

1. Although an anonymity direction was not made by the First-tier Tribunal (“FTT”), and no application is made before me, as this a protection claim, it is appropriate that a direction is made. 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. This direction

applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

2. This is an appeal against the decision of First-tier Tribunal (“FtT”) Judge NMK Lawrence promulgated on 27th August 2019. The underlying decision that was the subject of the appeal before FtT was the decision of the respondent dated 6th November 2017 to refuse the appellant’s claim for international protection.
3. The appellant is a national of Bangladesh. He arrived in the UK on 14th November 2009 as a Tier 4 (General) student with leave to enter valid until 31st December 2011. He remained in the UK unlawfully when his leave to enter expired, and in May 2016, he was arrested by police in Scotland on route to Northern Ireland. On 29th June 2016 he claimed asylum. The claim was refused for the reasons set out in the respondent’s decision of 6 November 2017.
4. The background to the appellant’s claim for international protection is summarised at paragraphs [8] and [9] of the decision of FtT Judge Lawrence and it serves no purpose to repeat the claim in this decision. The Judge referred to a number of documents relied upon by the appellant in support of his claim, and to a document verification report, relied upon by the respondent. The Judge also referred to the evidence of two witnesses that gave evidence before the Tribunal regarding the appellant’s activities in the UK. The Judge’s findings and conclusions in respect of the claim for international protection are set out at paragraphs [10] to [42] of the decision.
5. In the grounds of appeal, the appellant claims that the judge focused upon the FIR’s, and the evidence regarding proceedings against the appellant in Bangladesh, but failed to make findings in relation to material matters, including the appellant’s support for Jamaat-e-Islami, the level of his involvement, and the account relied upon by the appellant regarding the threats and harassment directed towards the

appellant's family. Furthermore, the appellant claims that the judge failed to make any clear findings regarding the attacks upon the appellant by the Awami League in 2004 and 2009, and in respect of the appellant's sur place activities in the UK, all of which were relevant to a proper assessment of the risk upon return.

6. Permission to appeal was granted by Designated FtT Judge Macdonald on 3rd October 2019. In granting permission, the judge noted that while the judge did make a clear finding on the documents presented, it is arguable that further findings were required upon the matters set out in the grounds.
7. Before me, Ms Cunha confirmed that having had the opportunity of considering the decision of the FtT Judge, it is accepted by the respondent that the FtT Judge erred in failing to make findings in relation to the core of the appellant's account, and that failure impacts upon the assessment of the risk upon return.
8. Having carefully considered the decision of the FtT Judge, I am satisfied that the FtT Judge fell into a legal error in the appraisal of the evidence. The Judge plainly focused upon the documents that were relied upon by the appellant and failed to make any proper findings regarding the core of the appellant's account.
9. Ms Cunha concedes, rightly in my judgment, that in the circumstances, the decision of the FtT cannot stand. She concedes that the decision of the FtT contains a material error of law and should be set aside. She accepts that none of the findings made by the FtT judge can be preserved, and the matter should be heard de-novo.
10. As the Judge failed to adequately address the core of the appellant's claim, the matter will need to be heard afresh with no findings preserved. I have decided that it is appropriate to remit this appeal back to the First-tier Tribunal, having considered paragraph 7.2 of the Senior President's

Practice Statement of 25th September 2012. In my view, in determining the appeal, the nature and extent of any judicial fact-finding necessary will be extensive.

11. The parties will be advised of the date of the First-tier Tribunal hearing in due course.

Notice of Decision

12. The appeal is allowed and the decision of FtT Judge NMK Lawrence promulgated on 27th August 2019, is set aside.
13. The appeal is remitted to the FtT for a fresh hearing of the appeal with no findings preserved.
14. I make an anonymity direction.

Signed
2019

Date

13th November

Upper Tribunal Judge Mandalia

TO THE RESPONDENT

FEE AWARD

I have allowed the appeal and remitted the matter to the FtT for hearing afresh. In any event, no fee is payable and there can be no fee award.

Signed

13th November 2019

Upper Tribunal Judge Mandalia