



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-000902

First-tier Tribunal No: HU/56171/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 26<sup>th</sup> of March 2024

**Before**

**UPPER TRIBUNAL JUDGE OWENS**

**Between**

**Mohamed Bashir Abdul Latif Jagot**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION MADE PURSUANT TO RULES 34 AND 39 OF THE**  
**TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Chana dated 6 February 2023 dismissing his appeal against the respondent's refusal of his human rights claim.
2. The judge found that the appellant was lacking in credibility and there were "no insurmountable obstacles" to the appellant living in Malawi.
3. In the rule 24 response dated 12 April 2023 the respondent concedes that there are various material errors of law. These include that the judge failed to make findings in relation to the core of the claim which is whether the appellant has resided in the UK for a continuous period of 20 years. It is also conceded that the judge referred to "insurmountable obstacles" rather than "very significant obstacles". The respondent agrees that in view of this the decision should be set aside.
4. On that basis I am satisfied that both parties consent to the decision of First-tier Tribunal Judge Chana being set aside because it contains material errors of law.

## **Disposal**

5. In directions dated 16 June 2023 both parties were asked to make submissions on disposal. I am satisfied that both parties consent to a decision on disposal being taken on the papers without an oral hearing.
6. The respondent submitted in a decision dated 26 June 2023 that it is appropriate to adjourn the decision for re-making at the Upper Tribunal as the errors relate to a material misdirection of law. It is not accepted that the appellant was deprived of a fair hearing.
7. The appellant in a letter dated 26 June 2023 submits that the appeal should be remitted to the First-tier Tribunal because the judge failed to determine the central issue in the appeal and did not apply anxious scrutiny which is demonstrated by the large number of typographical and grammatical errors, incomplete sentence fragments and incomplete legal references.
8. I am in agreement with the appellant, although the normal course is for an appeal to be retained in the Upper Tribunal, I am satisfied in this instance that there are so many mistakes in the decision that the appellant cannot be sure that his appeal was considered with anxious scrutiny. The mistakes go further than a few typographical errors. Secondly, although the judge took a negative view of the appellant's credibility, she has not made many findings which can be preserved.
9. In view of this, I am satisfied that the decision should be remitted to the First-tier Tribunal for fresh factual findings to be made.

## **Notice of Decision**

10. The decision of the First-tier Tribunal involved the making of an error of law.
11. The decision of the First-tier Tribunal is set aside in its entirety with no findings preserved.
12. The decision is remitted to the First-tier Tribunal for a de novo hearing before a judge other than First-tier Tribunal Judge Chohan.

R J Owens

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

10 November 2023