



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

Appeal Number: PA/06740/2018

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On 7th June 2019**

**Decision & Reasons Promulgated
On 17th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**MR A M B
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard (Solicitor)

For the Respondent: Mr D Mills (Senior HOPO)

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge O'Brien, promulgated on 13th July 2018, following a hearing at Birmingham on 27th June 2018. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Ethiopia, and was born on 14th January 1996. The appeal against the decision of the Respondent dated 16th May 2018, refusing his claim for asylum and for humanitarian protection, pursuant to paragraph 339 of HC 395.
3. The essence of the Appellant's claim was that he was a supporter of the political group PG7, an organisation that he began to support after his father's involvement with PG7, and after his father was taken away by the authorities in May 2015. He claims to have suffered ill-treatment on account of this himself.
4. At the hearing before me on 7th June 2019, there was agreement between Mr Mills, appearing on behalf of the Respondent Secretary of State, and Mr Howard, appearing on behalf of the Appellant, that there was an error of law. However, Mr Mills submitted that the error in this regard, notwithstanding the extensive Grounds of Appeal from the decision below, was only in relation to one particular point. This was to do with the judge's failure to make a finding on the question of the father's involvement politically. The Appellant himself had been found to be a person who lacked all credibility. However, that in itself, did not mean that the background evidence in relation to his father's involvement with PG7, had also implicitly been found to be lacking in credibility. Therefore, only Ground 4 of the Grounds of Application was accepted.
5. For his part, Mr Howard submitted that Ground 3 was equally important because the judge had failed to give proper regard to the Article 8 considerations, and the fact that the Appellant could have succeeded under paragraph 276ADE and under Article 8 ECHR. There had been no finding by the judge in relation to Article 8 either.
6. Given the consensus between the parties before me, I need only decide whether there is an error in relation to one particular matter before allowing the appeal. I do so on the basis that in this case there was extensive background evidence that the Appellant's father was involved with PG7. This arises earlier on in in the determination of the judge below who observes that:-

"It was not accepted [by the Secretary of State] that the Appellant's father had been arrested as a member of PG7. At his screening interview, the Appellant had merely said that his father was a politician but had not mentioned his arrest or detention ..." (paragraph 7).
7. Thereafter, in coming to his conclusions, the judge had observed how "The Appellant claims that his father was involved with PG7 and was taken by the authorities in May 2015" (paragraph 32). There is, however, as Mr Mills has pointed out, no express finding about the veracity of the father's involvement as claimed by the Appellant. This in turn would have impacted upon the judge's eventual conclusion that "the Appellant has given inconsistent explanations for why he was a supporter rather than a member of PG7" (paragraph 33).

8. I conclude that evidence will need to be heard again on the role of the father with PG7 and an express finding made in that regard. This being so, the appropriate course of action is to remit this matter back to the First-tier Tribunal to be heard again in its entirety, with such positive findings there are, to be retained on behalf of the Appellant.

Notice of Decision

9. The decision of the First-tier Tribunal involved the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I set aside the decision of the original judge. I remake the decision as follows. This appeal is remitted back to the First-tier Tribunal pursuant to Practice Statement 7.2(b) of the Practice Direction, to be heard by a judge other than Judge O'Brien in Birmingham.
10. An anonymity direction is made.
11. This appeal is allowed.

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 his 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

Deputy Upper Tribunal Judge Juss

12th July 2019