



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

Appeal Number: PA/07680/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 2 April 2019**

**Decision & Reasons Promulgated
On 09 April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

**MU
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Jorro, counsel instructed by Waterstone Solicitors
For the Respondent: Ms Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Bangladesh born on 30 August 1983. He arrived in the UK on 7 January 2010 with a valid student visa, which was subsequently extended. He made an asylum claim on 3 February 2017 when he was given a screening interview. He was interviewed substantively on 19 July 2017 and subsequent representations were made on 26 July 2017. In a decision dated 28 July 2017, his application for asylum was refused. He appealed against that decision and his appeal ultimately came before Judge of the First-tier Tribunal Housego for hearing on 19 December 2018. In a decision and reasons promulgated on 10

January 2019, the judge dismissed the appeal having rejected the credibility of the claim.

2. Permission to appeal was sought in time on the basis of three grounds.
3. Firstly, that the judge's credibility findings were flawed and unfair because they were substantially based on the failure by the First-tier Tribunal Judge to take account of the Appellant's answers as a whole in the screening interview.
4. Secondly, in failing to consider and make findings on highly material matters of risk to the Appellant on the basis of his ongoing *sur place* activities as a Jamaat-e-Islami Party supporter and whether this will continue if returned to Bangladesh in light of the judgments of HJ (Iran) [2010] UKSC 31 and MSM (Somalia) [2016] EWCA Civ 715, as well as the background evidence.
5. Thirdly, that the judge's approach to the issue of corroboration was erroneous and unfair in that he disregarded and rejected the corroborative value of documents the Appellant did produce, while finding against his credibility on the basis of an absence of additional corroborative evidence.
6. Permission to appeal was granted by Upper Tribunal Judge McWilliam in a decision dated 7 March 2019, on the basis that it is arguable the judge did not consider material matters, namely the answer the Appellant gave in his screening interview at 4.1 with reference to false charges and that all the grounds of appeal were arguable.

Hearing

7. At the hearing before the Upper Tribunal, Ms Everett on behalf of the Secretary of State accepted that the judge had clearly overlooked one of the Appellant's answers in the screening interview and that is as follows

"4.1 Please briefly explain all reasons why you cannot return to your home country"

to which the Appellant responded as follows:

"If I return to Bangladesh now I will be killed by Awami League and Chattrra League Party and present ruling party. Many times I was injured by the party and four of my family members died, two nephews, one my father's sister one is my uncle. This was 2013 and 2012. I cannot go back to Bangladesh because of fear of this party. They brought false cases against me and my family members."

8. At question 5.3 the Appellant was asked whether he has ever in any country been accused of or have committed an offence for which he has been or could have been convicted (including traffic offences) to which the Appellant responded in the negative. The judge took this point against the Appellant.

9. As indicated above, Ms Everett accepted that the judge had taken that answer simply at face value and without, for example, considering the remainder of the Appellant's answers as given in the screening interview in particular the answer to 4.1 cited above. She accepted that it would be difficult for her to argue that this did not go to the heart of the judge's decision and findings in respect of the Appellant's credibility.
10. Mr Jorro, on behalf of the Appellant, submitted that it was quite clear that the Appellant was distinguishing between false and genuine cases being brought against him. Mr Jorro agreed in light of the concession it was not necessary to determine whether or not the judge made further material errors of law as the matter would have to be remitted for a *de novo* hearing.

Findings and Reasons

11. In light of Ms Everett's helpful concession, I find that Judge of the First-tier Tribunal Housego did make a material error of law in his assessment of the Appellant's credibility, by failing to consider his answer as given in the screening interview in the context of his other evidence and answers in particular that given in the screening interview in response to question 4.1.
12. I accept the submission and find that this does go to the heart of the case and the Appellant's credibility and that fairness requires that the decision be set aside in order to be re-made.

Decision

13. The decision of First tier Tribunal Judge Housego contains material errors of law. I set that decision aside and remit the appeal for a hearing *de novo* before a different Judge of the First-tier Tribunal.

Directions

14. The appeal should be listed for three hours with a Bengali Sylheti interpreter.

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 Rebecca Chapman

Date 7 April 2019

Deputy Upper Tribunal Judge Chapman