



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001145
First-tier Tribunal No: PA/52968/2020
IA/02542/2021

THE IMMIGRATION ACTS

Decision and Reasons Issued:
On 26 June 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE MALIK KC

Between

ID (TURKEY)
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE
FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr Jitendra Acharya, Solicitor, Acharyas Solicitors
For the Respondent: Mr David Clarke, Senior Presenting Officer

Heard at Field House on 15 May 2024

DECISION AND REASONS

Introduction

1. This is an appeal by the Appellant from the decision of First-tier Tribunal Judge Khawar promulgated on 13 February 2024. By that decision, the Judge dismissed the Appellant's appeal from the Secretary of State's decision to refuse his protection and human rights claims.

Discussion

2. I am grateful to Mr Jitendra Acharya, who appeared for the Appellant, and Mr David Clarke, who appeared for the Secretary of State, for their assistance and able submissions. It is common ground that the Judge's decision is wrong in law and should be set-aside. Mr Acharya submits, and Mr Clarke concedes, that the Judge's approach and reasoning as to Paragraph 276ADE(1)(vi) of the Immigration Rules were flawed. The Judge, at [48], concluded that "there is no reliable evidence to suggest that the appellant would perceive very significant obstacles to integration upon return" and, therefore, the requirement in Paragraph 276ADE(1)(vi) of the Immigration Rules was not met. There was no broad evaluative assessment as mandated by the Court of Appeal in *Kamara v Secretary of State for the Home Department* [2016] EWCA Civ 813 [2016] 4 WLR 152. There were no relevant findings as to the Appellant's claim of conscientiously objecting to carrying out military service. It is well settled that the requirement in Paragraph 276ADE(1)(vi) of the Immigration Rules connotes an elevated threshold and will not be met by mere inconvenience or upheaval but the Judge's conclusion is simply unsustainable. In the circumstances, I agree with the parties that the Judge's decision is wrong in law and should be set-aside. Having regard to paragraph 7.2 of the Senior President's Practice Statement for the Immigration and Asylum Chambers, and the extent of the fact-finding which is required, I remit the appeal to the First-tier Tribunal to be heard afresh by a different judge. Mr Acharya contemplates submitting further evidence. It will be for the First-tier Tribunal to consider the evidence and make appropriate findings of fact.

Decision

3. The First-tier Tribunal's decision is set aside and the appeal is remitted to the First-tier Tribunal for a fresh hearing.

Anonymity

4. I consider that an anonymity order is justified in the circumstances of this case having regard to the Presidential Guidance Note No 2 of 2022, *Anonymity Orders and Hearing in Private*, and the Overriding Objective. I make an order under Rule 14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008. Accordingly, 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 to both parties. Failure to comply with this direction could lead to contempt of court proceedings.

Zane Malik KC
**Deputy Judge of Upper Tribunal
 Immigration and Asylum Chamber**

Date: 18 June 2024