

**Upper Tribunal**

**(Immigration and Asylum Chamber) Appeal Number: PA/13328/2018**

**THE IMMIGRATION ACTS**

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| **Heard at Field House** | **Decision & Reason Promulgated** |
| **On 5 March 2019** | **On 8 March 2019** |
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**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANUELL**

**Between**

**Mr MD MASADUR RAHMAN**

(NO ANONYMITY DIRECTION MADE)

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr G Mavrantonis, Counsel, (Direct Access)

For the Respondent: Ms A Holmes, Home Office Presenting Officer

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant appealed with permission granted by First-tier Tribunal Judge L Murray on 4 February 2019 against the determination of First-tier Tribunal Judge NMK Lawrence who had dismissed the appeal of the Appellant against the refusal of his international protection claim. The decision and reasons was promulgated on 4 January 2019.

2. The Appellant is a national of Bangladesh, born on 13 October 1990. He claimed in summary that he was at risk on return from the government of Bangladesh because of his political opinion. After reviewing the evidence the Appellant presented against his immigration history, Judge Lawrence found that the Appellant was not credible and that his claim was fabricated. The Appellant was able to return to Bangladesh safely, as indeed he had done in 2013.

3. Permission to appeal was granted because it was considered arguable that the judge had erred by failing to grant the Appellant an adjournment to obtain evidence to counter the adverse document verification report produced by the Respondent. It was arguable that the Appellant had not had sufficient time to obtain the evidence. The two other grounds raised on the Appellant’s behalf, failing to apply the correct test to the document verification report and procedural error for the witness evidence, were considered less arguable.

4. No notice under rule 24 had been served by the Respondent, but Ms Holmes indicated that the onwards appeal was opposed.

*Submissions*

5. Mr Mavrantonis for the Appellant relied on his skeleton argument, the grounds of onwards appeal and the grant of permission to appeal in the First-tier Tribunal. In summary, counsel submitted that the judge had erred in his chronology when calculating the time which the Appellant had available to obtain documents from Bangladesh, and had failed to apply the fairness test for adjournments mandated in the leading authorities such as Nwaigwe [2014] UKUT 418 (IAC). Indeed, the judge had failed to mention any authorities, let alone the correct test, when considering the adjournment application. Although no application to admit fresh evidence had been made to the Upper Tribunal, the Appellant had now obtained further evidence from Bangladesh about his documents which showed that such evidence was obtainable. That evidence had been delayed by incompetence on the part of the Appellant’s previous representatives, not by the Appellant himself. The Appellant had been denied a fair hearing. Additionally, the judge had erred when evaluating the probative value of the document verification report and also when failing to ensure that the Appellant was aware that he had to tell the truth to the tribunal. The decision and reasons was unsafe and should be set aside and the appeal reheard before another judge.

6. Ms Holmes for the Respondent submitted that no unfairness of any kind had been demonstrated and that there was no material error of law. The document verification report was but one relatively minor element in a large catalogue of adverse credibility findings, which had been reached in the round. The Appellant had raised all manner of other matters before the judge, including a land dispute. It was also clear that the Appellant had in fact had sufficient time to prepare and present his case. The judge had considered the document verification report in accordance with relevant decisions such as Tanveer Ahmed \* [2002] UKAIT 439. It was absurd to propose that the Appellant needed to be reminded that he had to assist the tribunal by telling the truth. There was no error of law and the appeal should be dismissed.

7. Mr Mavrontonis wished to make no reply.

*No material error of law finding*

8. The tribunal reserved its decision, which now follows. The tribunal must reject the submissions as to material error of law made on behalf of the Appellant. In the tribunal’s view, the alleged unfairness has no substance and the errors asserted to exist in the decision and reasons are illusory. The tribunal accepts the submissions made by Ms Holmes.

9. The determination was carefully prepared by a very experienced judge, who correctly placed the Appellant’s very belated protection claim into the context of his immigration history, identifying the asylum claim as in effect a feeble last resort, following an inactive overstay of some three years. Such unmeritorious appeals become sadly familiar to First-tier Tribunal Judges. The judge was correct to note that the Appellant had had sufficient time to prepare his claim, since a number of the events on which the Appellant relied had supposedly taken place before he came to the United Kingdom and the Appellant claimed to have relatives, friends and associates in Bangladesh. In any event, there are all manner of means of obtaining documents from Bangladesh speedily. The Appellant had had ample opportunity to raise his asylum claim from 2009 onwards. The country background evidence for Bangladesh has long emphasised the problem of unreliable documents emanating from there and it is of course obvious that that any documents produced by the Appellant might well be checked by the Respondent. Bangladesh is a Commonwealth country and the United Kingdom enjoys friendly relations. The adverse document verification report can hardly have taken the Appellant by surprise. The Appellant’s calculation of the time available to him to prepare the final stage of his appeal is far too restricted and cannot be accepted.

10. When considering the eleventh hour adjournment application, the judge clearly had in mind fairness and the key authorities such as Ngaigwe. There was no requirement to cite basic law, although [6] of Ngaigwe perhaps deserves more attention than it often receives. The judge addressed his mind to the possible impact of another letter from Bangladesh directed towards refuting the document verification report, and explained why (see [27] of the determination) that was unlikely to make any real difference given that there was no impugning of the verification process followed by the Appellant (and that he had not been put at potential risk by the process). The Appellant failed to explain before the judge why he had been unable to obtain his intended authentication/refutation documents promptly, given the impending hearing.

11. Those documents from Bangladesh were now said to be available, after a lengthy delay said to be the fault of the Appellant’s previous representatives. The tribunal has not seen any evidence about that and makes no findings. There was no application for the fresh documents to be admitted before the Upper Tribunal and indeed the tribunal would have refused permission. If the Appellant contends he has new evidence, not previously seen by the Secretary of State for the Home Department, it is always open to him to submit a fresh protection claim. That is a matter for the Appellant and those advising him.

12. In the tribunal’s view, the judge’s decision to refuse to adjourn was a proper exercise of his judicial discretion and the reasons for refusing to adjourn which the judge gave were open to him. This was on its face a cynical and abusive asylum claim. The evidence which the Appellant had presented was feeble and withstood no examination, falling far short of the lower standard. There was independent evidence deserving of weight which showed that some of the Appellant’s documents were unreliable and the Appellant had not indicated a satisfactory means of countering the document verification report obtained in the course of professional duty.

13. Even if this had been a borderline case, it is plain that a letter from the Appellant’s lawyer could not have had any realistic prospect of changing the outcome of the appeal. As Ms Holmes submitted, the judge gave detailed, multi-faceted reasons for dismissing the Appellant’s story, sufficient to justify describing it as a “tissue of lies”. The suggestion that the judge should have given the Appellant a warning that he was obliged to tell the truth is risible, particularly given that the Appellant had already signed an undertaking to such effect when commencing the asylum process.

14. The country background concerning Bangladesh and its turbulent political scene and its various serious problems was not in dispute. The judge explained why that made the Appellant’s story concerning the events which he said caused him to fear return significantly less likely.

15. Despite the obvious weakness of the Appellant’s claims, the judge conducted a full and careful review of them, in a logical, structured manner. Perhaps even more importantly, on a fair and full reading of the determination, it is clear that the judge was constantly testing his conclusions, giving anxious scrutiny to the evidence and considering the alternatives: this can be seen in particular at [31] and [32] of the determination which sets out the judge’s final reflections.

16. In the tribunal’s view, the unfairness submissions advanced on the Appellant’s behalf amount to no more than a means of seeking to avoid the judge’s comprehensive adverse findings of fact, all of which were available to him. The tribunal finds that there was no material error of law in the decision challenged.

**DECISION**

The appeal is dismissed

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged.

**Signed Dated** 5 March 2019

**Deputy Upper Tribunal Judge Manuell**