



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-005037

First-tier Tribunal No: PA/60073/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 21st of January 2025

Before

UPPER TRIBUNAL JUDGE LOUGHRAN
DEPUTY UPPER TRIBUNAL JUDGE LAY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

v

AK
(Anonymity Order Made)

Respondent

Representation:

For the Appellant: Ms J Isherwood, Home Office Presenting Officer

For the Respondent: Mr R Claire, Counsel instructed by J Stifford Solicitors

Heard at Field House on 8 January 2025

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant . Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Secretary of State for the Home Department was the Appellant for the purposes of this error of law hearing. For ease and clarity of reference, and for consistency with the papers and First-tier Tribunal determination extracts, we will

refer below to AK as “the Appellant” and the Secretary of State as “the Respondent”.

2. At the error of law hearing, there was a 375-page composite bundle and a Rule 24 reply. Bundle references in this determination are in the format as follows: [CB: XX]: [Composite Bundle: page number].
3. By way of summary of the relevant procedural background, the Appellant is a Bangladesh national who claimed asylum in 2017. That protection claim was eventually refused in a decision dated 25 October 2023, against which the Appellant lodged a notice of appeal. As part of the appeal, the Appellant relied upon numerous (translated) documents with which he sought to corroborate various aspects of his account. They included police reports, court extracts and newspaper articles [CB: 77-243]. The Respondent, in the refusal letter dated 25 October 2023, dismissed the documentary evidence as unreliable [CB: 68], on the basis of her Country Policy Information Note’s guidance that “fraudulent documents are often obtained in Bangladesh”, as well as the specific contentions that “you have failed to provide the envelope in which they have arrived” and “the documents have no security features so therefore are not able to be verified as authentic”.
4. Following a First-tier Tribunal hearing on 17 September 2024, the Appellant’s appeal was allowed by First-tier Judge Freer (hereafter “the FTJ”) on asylum and Articles 3 & 8 ECHR. The FTJ concluded that the Appellant was at risk in Bangladesh as a former Awami League youth leader, former Hindu and a past victim of persecution, along with various family members, by the youth wing of Jamaat-e-Islami. As the FTJ put it at paragraph 62, “the Appellant is a member of not one but multiple target groups”. The FTJ - at paragraphs 48-50, 52 & 56-58 - analysed the most relevant documentary evidence and the reasoning included, at paragraph 59, the FTJ’s view that “the corroborative independent documents broadly are credible and are certainly consistent; the likelihood is that they come from credible and disparate sources”.

The grounds of appeal on which permission were granted

5. The Respondent sought permission to appeal.1) The Respondent contends that the FTJ had impermissibly placed the “burden of proof” onto the Home Office when evaluating the evidence; and/or the FTJ applied an assessment of the documentary evidence relied on by the Appellant that runs contrary to the guidance in *Tanveer Ahmed* [2002] UKIAT 00439 by failing to have sufficient regard to all of the relevant documentary evidence.
6. In a decision dated 24 October 2024, First-tier Judge Veloso granted permission to the Secretary of State, stating, inter alia. *“whilst the Judge correctly referred to the relevant burden and standard of proof at [12] through to [22], it is arguable that they went into apply the incorrect burden by referring to the respondent’s failure to provide a [Document Verification Report] for the appellant’s supporting documents about Bangladesh. It is also arguable that at [50] the Judge erred in failing to consider all the documents before them”*.
7. The Appellant served a Rule 24 response dated 29 November 2024, which argued that the FTJ had provided detailed reasoning on the central issues, including the documentary evidence.

Submissions

8. Ms Isherwood, on behalf of the Respondent submitted that repeatedly in the determination (at paragraphs 30, 49, 52, 55, 56 and 57) the FTJ appears to have regard to the Respondent's purported failure to "check" documents submitted by the Appellant and thus draws conclusions as to their reliability on that basis. Examples included [at 49] "the respondent did not check with [the signatory] of a testimonial" and [at 52] "it is extraordinary not to take this letter at face value or produce a [Document Verification Report], as it so easily fact-checked". Ms Isherwood argued that the proper burden of proof had not been applied, namely that it is for asylum-seeker to establish their case and that the role, if any, of the Respondent in checking documents is "limited" and rare. It was not relevant that the Respondent had not undergone checks on the document. It was for the Appellant to persuade the Tribunal as to their reliability, having regard to all the documents and the evidence in the round.
9. Ms Isherwood argued that it was all the more unfair to seek to place this burden on the Respondent when many of the documents were served post-Review on 13 April 2024 [CB: 373] and the original refusal letter had itself explicitly stated why there would, in any case, be difficulties with verifying such documents since they originated from Bangladesh ("these documents have no security features so are therefore not able to be verified as authentic"). Ms Isherwood argued that "the Judge needed to deal with the Country Policy Information Note" on Bangladeshi documents. Ms Isherwood also articulated her concern that the FTJ had accused the Respondent of "bias" (at paragraphs 40 & 45) in the handling of the evidence and that this was indicative of an impermissible approach in giving weight, or no weight, to the Secretary of State's scepticism about the claim.
10. Ms Isherwood stressed that nowhere in the determination did the FTJ expressly state that "I have considered all the documentary evidence". She pointed, in particular, to paragraph 50 of the determination and argued that this revealed a failure of "holistic consideration", contrary to *Tanveer Ahmed*, which requires that documents should not be viewed in isolation but considered as a whole and set against the rest of the evidence.
11. Mr Claire submitted that the FTJ correctly set out the burden of proof as part of the applicable legal framework at paragraphs 12 to 19, that the approach taken to the reliability of the documents has to be viewed in the context of the broad and positive credibility findings made elsewhere in the determination. The Tribunal found the Appellant to be reliable and thus found the documents to be reliable also. There was also regard had to the "postal proof" supplied (paragraph 58) and the accuracy of translation (paragraph 48).
12. Mr Claire argued that the FTJ went into detail about the most important documents and what had been gleaned from them for the purposes of fact-finding.

Conclusions

13. *Tanveer Ahmed*, approved in *QC (verification of documents; Mibanga duty)* [2021] UKUT 33 (IAC, provides the following guidance:

35 In all cases where there is a material document it should be assessed in the same way as any other piece of evidence. A document should not be viewed in isolation. The decision maker should look

at the evidence as a whole or in the round (which is the same thing).

36 There is no obligation on the Home Office to make detailed enquiries about documents produced by individual claimants. Doubtless there are cost and logistical difficulties in the light of the number of documents submitted by many asylum claimants. In the absence of a particular reason on the facts of an individual case a decision by the Home Office not to make inquiries, produce in-country evidence relating to a particular document or scientific evidence should not give rise to any presumption in favour of an individual claimant or against the Home Office.

14. We do not read the FTJ's determination as having applied any presumption against the Home Office. Rather, the FTJ has examined, and accepted as reliable, both the Appellant's account and the documents upon which he has relied. The positive credibility findings by the FTJ are emphatic and clear (paragraph 59), ranging from endorsement of the "corroborative independent documents", allied to "credible and consistent" statements from family members, and "corroborated sur place activity". There is detailed, individual analysis of certain key corroborative documents (paragraphs 49, 50, 52, 55, 56 and 57), having regard to their content, provenance and consistency. At the same time, and often in the same paragraphs, it is true to say that the FTJ expressed a certain degree of exasperation with the Respondent's ongoing rejection of one or more of the 62 documents. The FTJ wanted reasons beyond the contention that the documents were "from Bangladesh" (paragraph 45). It is in that context that there is recourse to phrases such as "it is so easily fact-checked" (paragraph 52) and "this is a checkable fact" (paragraph 56) which appear to be aimed at underlining not only that the documents are deemed reliable but that there is nothing in front of the FTJ from the Secretary of State to displace the Tribunal's reliance on them.
15. Further, the FTJ did have regard to the Respondent's scepticism about Bangladesh documents. It is stated at paragraph 45 that "the respondent's general view of the documents from Bangladesh is that the country produces some unreliable documents, so these must be of that sort. This is not a good enough reason without more to refuse asylum..." Further, at paragraph 50: "It is certainly immune to the respondent's doubts about documents originating in Bangladesh". Further, at paragraph 53: "the respondent overlooked the fact that proof came from the UK as well as Bangladesh. That is a very important fact."
16. We do not accept that the FTJ erred in the approach to the documentary evidence as a whole. The FTJ at paragraphs 32 ("what is clear from reading the documents together"), paragraphs 48, 49, 50, 52, 56 and 57 not only examines particular documents but then weaves the analysis into the other strands of evidence, leading to the findings at paragraphs 59 to 62.
17. The FTJ was not obliged to explicitly provide reasoning on every one of the 62 documents. Even though (at paragraph 50) the FTJ stated "I find no need to examine 61 other documents of kindred types", the determination does in fact provide specific analysis of half-a-dozen. Moreover, Ms Isherwood could not point towards any other items which could be said to have materially undermined the

Appellant's case had they been subject to explicit consideration in the determination.

18. To the extent that Ms Isherwood raised concerns about the FTJ using the word "bias" in describing the Respondent's approach to the documents/claim, (i) there was no ground of appeal raising procedural unfairness and (ii) the FTJ's use of the phrase "appearance of bias" (paragraph 45) was, in our view, simply a way of expressing frustration with the Respondent's positions adopted in the appeal, which to the Judge looked resistant to the overwhelming evidence. The language does not undermine the FTJ's overall reasoning.
19. Finally, it is worth noting also the Senior President's Practice Direction, "Reasons for decisions", dated 4 June 2024, which reminds the IAC that "adequate reasons for a substantive decision may often be short. In some cases a few succinct paragraphs will suffice... a challenge based on the adequacy of reasons should only succeed when the appellate body cannot understand the Tribunal's thought process in making material findings." A realistic and reasonable construal of the First-tier determination in this case leaves the reader with little or no doubt about how and why the FTJ reached their decision: in short, the FTJ was impressed by the Appellant's oral evidence under cross-examination, allied to the "wealth of evidence", including "the corroborative documents [which are] broadly credible and are certainly consistent... it is a very strong case".

Notice of Decision

The decision of the First-tier Tribunal, which allowed the appeal, is upheld.

Taimour Lay

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

14 January 2025