



**The Upper Tribunal
(Immigration and Asylum Chamber)
number: IA/15220/2013**

Appeal

THE IMMIGRATION ACTS

Heard at Field House

Decision

On June 24, 2015

Promulgated

On June 26, 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR MD ABDUL BAQI NAHEN
(Anonymity Direction Not Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Aslam, Counsel, instructed by Kuddus Kamla Solicitors

For the Respondent: Mr Parkinson (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Bangladesh. He entered the United Kingdom as a student on January 19, 2009 with leave valid until April 1, 2012. On March 30, 2012 he made an application to vary his leave and on April 19, 2013 the respondent refused his application and at the same time a decision to remove him by way of directions was

made under Section 47 of the Immigration, Asylum and Nationality Act 2006.

2. The appellant appealed that decision on May 7, 2013 under section 82(1) of the Nationality, Immigration and Asylum Act 2002.
3. The matter came before Judge of the First-tier Tribunal Majid on December 5, 2013 and in a decision promulgated on December 9, 2013 he dismissed the appellant's appeal. The appellant lodged grounds of appeal on December 16, 2013 submitting the FtTJ had erred and Judge of the First-tier Tribunal Grimmatt gave permission to appeal. The matter came before Deputy Upper Tribunal Monson on February 6, 2014 and in a determination promulgated on February 13, 2014 he found an error in law and remitted the appellant's appeal back to the First-tier Tribunal.
4. The appellant's appeal came back before Judge of the First-tier Tribunal Dean (hereinafter referred to as the FtTJ) on October 29, 2014 and in a decision promulgated on November 12, 2014 he refused the appellant's appeal.
5. The appellant applied for permission to appeal on November 19, 2014 but Judge of the First-tier Tribunal Nicholson refused this on December 31, 2014. The appellant renewed his grounds of appeal and on April 24, 2015 Deputy Upper Tribunal Judge McGinty gave permission on a limited basis.
6. The matter came before me on the above date and the appellant was represented as set out above and present at the hearing.
7. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order.

ERROR OF LAW SUBMISSIONS

8. Mr Aslam adopted the grounds of appeal and argued the FtTJ had erred by failing to have regard to the emotional attachment the appellant's grandmother had to the appellant. She suffered from various ailments but the evidence before the FtTJ demonstrated that the appellant provided both social and psychological support. The FtTJ failed to address this in his decision and in doing so failed to properly consider the appeal outside of the Rules.
9. Mr Parkinson submitted there was no error because the omission would not make any material difference to the FtTJ's decision because he had given ample reasons for refusing the appeal. The appellant did not live with his grandmother and whilst the FtTJ noted the support he gave he found this was limited and that the grandmother's needs were properly catered for either by the family

she lived with or it could be by additional support from social services. She had family present and the FtTJ was entitled to make the findings she did. The appellant was here as a student and his stay was precarious and he had no expectation that he would be allowed to remain. The FtTJ did not have to make findings on every part of the appellant's claim.

10. Mr Aslam reminded me that the FtTJ had not considered the appellant's case in full and that was why there was an error.

FINDINGS ON ERROR IN LAW

11. Permission to appeal had been given on a limited basis. The appellant did not attend the hearing before the FtTJ and he therefore dealt with the appeal on the evidence presented.
12. Contained in a bundle was a two page medical report but in truth this merely listed the appellant's grandmother's symptoms and medications she was taking. The report did not provide the FtTJ with any insight into the appellant's grandmother's problems or quality of life. The appellant provided a witness statement, as did Mohammed Abdul Quddus and Mohamed Abdul Wodud (his uncles).
13. The FtTJ had regard to these documents as he engaged with them in his determination. He was aware the appellant provided care to his grandmother but as the appellant did not live with her he viewed his involvement as limited. He noted what Mr Quddus and Mr Wodud said and that they were the appellant's grandmother's children.
14. The FtTJ found that there was no breach of family or private life in removing the appellant because her immediate family catered for the appellant's grandmother's needs and there was also help available from social services.
15. Whilst the FtTJ did not specifically make findings about her level of emotional attachment I do not find this amounted to an error in law. The FtTJ quite properly considered the whole picture and both the appellant and his grandmother are adults. At paragraph [20] the FtTJ noted that the appellant provided care but at paragraph [22] the FtTJ further found that she was adequately cared for by others with whom she lived. The appellant did not come within the Immigration Rules for the purposes of private or family life and whilst he did provide assistance he was not the only family member and importantly he did not even live with her. Neither the appellant nor his witnesses attended the hearing and the appellant invited the Tribunal to deal with the case on the papers. This is what the FtTJ did and I am satisfied that the FtTJ did consider all the evidence and any failure to specifically consider the appellant's emotional bond to his grandmother was not material as the FtTJ gave ample reasons for finding article 8 was not engaged outside of the Rules.

16. For these reasons I dismiss the appeal.

DECISION



17. There was no material error in respect of the article 8 ECHR decision. I dismiss the appeal

Signed:

Deputy Upper Tribunal Judge Alis

**TO THE RESPONDENT
FEE AWARD**



I make no fee award.

Signed:

Deputy Upper Tribunal Judge Alis