



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

Appeal Number: PA/01793/2019

THE IMMIGRATION ACTS

**Heard at Bradford
On 29 July 2019**

**Decision & Reasons Promulgated
On 20 August 2019**

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

**Ahmad [K]
(ANONYMITY NOT DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Grier (Counsel)

For the Respondent: Mrs R Pettersen (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal, brought with the permission of a Judge of the First-tier Tribunal, from a decision of the First-tier Tribunal (the tribunal) which it made on 27 March 2019, to dismiss his appeal against the Secretary of State's decision of 11 February 2019, to the effect that he is not entitled to international protection.
2. This decision of the Upper Tribunal is short and that is because there was agreement between the parties before me. So, it is not necessary for me to go into detail about the issues in the appeal or to deal with all the arguments which had been deployed before the tribunal.
3. One of the bases for criticism of the tribunal's decision, in the grounds drafted and relied upon by Mr Grier, was that the tribunal appeared to have considered and relied upon extraneous material in the form of an Australian Department for Foreign Affairs and Trade Report. That report appeared to have informed its view that if the claimant was a person with a significant oppositionist political profile, he would not have been able to leave Egypt and nor would his wife, using normal immigration channels.
4. It is apparent that what I shall now simply call the "the Australian Report" is quoted in the Country Policy and Information Note Egypt (the CPIN) of July 2017. The Secretary of State's written explanation to refuse international protection appears to quote from the CPIN where that document is, in turn, quoting from the Australian Report. The tribunal, at paragraph 30 of its written reasons, seems to be quoting from the Australian Report itself though, I accept, the position is not entirely clear. But Mr Grier suggested that a likely scenario was that the tribunal had looked at the Australian Report for itself after the hearing and Mrs Pettersen also agreed that that was a likely scenario.
5. I cannot, of course, be certain as to what has happened. It is possible that what is quoted at paragraph 30 of the tribunal's written reasons is simply a longer extract from the quotation from the Australian Report in the CPIN itself. But the position is, at least, uncertain. There is agreement between the parties that the most likely scenario is that the tribunal has read and relied upon the Australian Report for itself although it does not say that that is what it has done.
6. In the circumstances, and bearing in mind the agreement between them, I have decided to proceed on the basis suggested by the two representatives and to conclude that either the tribunal has looked at extraneous material or that its decision suggests that it may have. On that basis I have concluded it is appropriate to set aside the tribunal's decision as I am invited to do. Mrs Pettersen suggested I should, in those circumstances, remit and urged me to do so. Mr Grier was of the same mind. I have decided, therefore, to remit to the tribunal for a complete rehearing.
7. My having decided to remit I am statutorily obliged to give directions for the rehearing of the appeal. However, I do not need to be overly detailed or prescriptive in doing so. I will, therefore, direct that there will be a further hearing before the First-tier Tribunal which will not involve the particular judge who conducted the tribunal hearing and decided the appeal previously. All of the directions with respect to listing and attendant matters may be left to the tribunal.

8. This appeal to the Upper Tribunal then is allowed on the basis and to the extent explained above.

Decision

The decision of the First-tier Tribunal involved the making of an error of law. Accordingly, this appeal to the Upper Tribunal is allowed and its decision is set aside. Further, the case is remitted to the First-tier Tribunal for rehearing.

I do not direct anonymity. The First-tier Tribunal did not do so and I was not urged to do so.

Signed

**M R Hemingway
Judge of the Upper Tribunal**

Dated

14 August 2019