



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2025-001831

First-tier Tribunal No:
PA/60123/2024
LP/07798/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:

1st July 2025.

Before

**UPPER TRIBUNAL JUDGE BLUNDELL
DEPUTY UPPER TRIBUNAL JUDGE BURGHER**

Between

**MS (Bangladesh)
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Rahman, Counsel

For the Respondent: Ms Tariq , Senior Home Office Presenting Officer

Heard at Field House on 20 June 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

Introduction

1. The appellant appeals the decision of FtT Judge Rae-Reeves (“the Judge”) dated 28 February 2025 which dismissed the appellant’s appeal against the respondent’s decision to refuse, on 27 March 2024 a protection and human rights claim.

Anonymity Order

2. The Judge made an anonymity order. There was no request for the anonymity order to be set aside. We undertook the balancing exercise between the appellant’s protected Article 8 rights against the Article 10 rights of the public to know the appellant’s identity as a party to these proceedings. We conclude that the appellant’s Article 8 rights outweigh the Article 10 rights as he is presently seeking international protection.

Background

3. The appellant is a citizen of Bangladesh who entered the United Kingdom in 2011 on a visit visa commencing 22 September 2011 expiring on 22 March 2012. He became an overstayer but made an asylum and human rights claim on 12 August 2022 which led to an appeal before the Judge on 27 February 2025 which was dismissed. The Judge found that the whilst the appellant was a low-level member of BNP, his evidence was inconsistent and lacking in detail. The Judge found that notwithstanding the appellant’s mental health problems his credibility was undermined. Section 8 of the Asylum and Immigration (Treatment of Claimants) Act 2004 was applicable given that there was no claim for asylum for 11 years in circumstances where the appellant had said he had been arrested multiple times. The Judge found that the appellant was a low-level supporter of the BNP and he would not be at risk due to the current political situation. Having considered the CPIN: Bangladesh and United Nations Human Rights Office fact finding report on violations and abuses related to the protests of July and August 2024 in Bangladesh the Judge found that the Awami League, who the appellant feared, were no longer in power and their influence was waning such that there would be no risk to the appellant now.

Grounds of Appeal

4. The grounds of appeal against the decision of the Judge that have been permitted to proceed by FtT Judge Turner on 23 April 2025 are as follows:

Ground 1 - Mental Health Evidence Insufficiently Considered

10. The Appellant’s WS details his severe PTSD, chronic anxiety, and depression, supported by an expert psychological report (WS, “My

Mental Health Condition.. He explains that such conditions cause **memory fragmentation, confusion, and delayed decision-making** regarding asylum (WS, “How My Mental Health Condition Affected My Asylum Claim”).

11. The decision-maker’s approach often disregards these mitigating factors, treating any inconsistency or delay as proof of dishonesty. That is inconsistent with Mibanga v SSHD [2005] EWCA Civ 367, which requires that medical evidence be integrated into the credibility analysis rather than treated as an afterthought.

12. The Judge at para 25 of the determination cast a doubt about the psychological problem suffered by the appellant stating that he has provided evidence without having any difficulty. This is flawed as the Judge has mentioned somewhere else at para 24 that the “appellant’s evidence was also very vague and lacking specific detail”. This assessment by the Judge is contradictory itself as it appears that the expert psychological report is correct which stated that the appellant suffers from PTSD and memory loss for which he cannot remember and cannot provide detailed statement stating his circumstances.

Ground 2 - Delay in Claiming Asylum

13. The appellant clarifies that his “severe PTSD, anxiety, and depression” (WS) contributed to his delayed asylum application. He also mentions financial constraints and misinformation about asylum procedures, which prevented him from applying sooner (WS, “The fourth reason for refusal is the delay in claiming asylum...”).

14. The decision-maker placed undue weight on the delay in isolation, contrary to Y (China) [2010] EWCA Civ 116, which requires consideration of personal circumstances, mental health, and overall context.

The hearing

Ground 1 - Mental Health Evidence Insufficiently Considered

5. In respect of Ground 1 Mr Rahman submitted that the Judge had not properly considered the evidence of the appellant or the psychological report prepared by Mr. Hossain. The appellant’s witness statement stated that he was suffering from severe PTSD, anxiety and depression, which impaired his ability to make rational decisions [paragraph 5]. He states that due to severe mental health struggles, he was unable to seek asylum immediately after arriving in the UK, he was in a state of emotional and psychological distress, struggling with fear, anxiety, and confusion and did not have the mental clarity, financial resources, or legal knowledge to understand how to present his asylum case [Paragraph 14]. He states that his PTSD and anxiety affected his ability to recall dates, events and details accurately [Paragraph 15].

6. Mr Hossain's report was completed on 19 February 2025, following a video interview with the appellant on 12 February 2025 and a psychometrics assessment on 14 February 2025. Mr Hossain concluded that the appellant has severe psychological problems and is suffering from extremely severe depression, anxiety and stress and that he is in poor condition regarding wellbeing [10.2]. At paragraph 10.3 Mr Hossain observes that:

The ability to encode, store, and later retrieve information is a highly complex cognitive function that relies on various memory-related skills and can be disrupted by numerous psychological disorders (Delis, 1998). Given his severe psychological problems, he will likely have difficulty recalling accurate information at times. His physical problems may increase his psychological problems.

7. Mr Rahman referred to paragraph 25 of the Judge's decision that states:

I found his evidence in relation to going into hiding to be vague and inconsistent. In his asylum interview he simply says that he couldn't be found, he was undercover and moved with caution (question 51). He gives no detail of where he went into hiding until his oral evidence today, when he simply said that he stayed in fields close to the family home. This conflicts with witness statement in which he says that was in hiding and moving frequently between different locations. He proffered no evidence of different locations today. His evidence today is therefore inconsistent with his interview and lacks detail. In considering the appellant's evidence I have taken into account, Mr Hossain's evidence that his disorders may mean that he has difficulty in recalling accurate information at times (10.3). I have seen the appellant give evidence today and he appeared to have no difficulty in recalling information when asked questions. His evidence is simply inconsistent and lacking in detail.

8. In view of the witness evidence and Mr Hossain's report, Mr Rahman submitted that the Judge had erred by relying on his personal observations of the appellant's recall during the hearing rather than expert medical evidence and failing to properly consider the impact of the appellant's mental health on his ability to give consistent evidence.
9. Mr Rahman sought to emphasise that the Judge was erroneous in his assessment of the relevant medical evidence and relevant circumstances. He submitted that whilst the Judge accepted that the appellant's diagnoses of severe PTSD, insomnia, chronic anxiety and major depressive disorder and some joint pain [paragraph 42] this was then improperly dismissed when considering the implications on the appellant's health if he was to return to Bangladesh [Paragraphs 43 - 44].
10. Ms Tariq, for the SSHD, submitted that the appellant's grounds were simply disagreements with the findings and did not amount to any material error of law. Ms Tariq emphasised that the Judge clearly took account of the relevant medical evidence and considered it in the round as he was entitled to do. In particular:

- (i) At paragraph 9 of his decision the Judge explicitly references Mr Hossain's report in the context of the appellant's explanation of why it took him so long to claim asylum and the affect that his had on his ability to recall dates and events accurately.
- (ii) At paragraph 25 of the decision, the Judge references paragraph 10.3 of Mr Hossain's report and explicitly says he has taken into account Mr Hossain's evidence that the appellant's disorders may mean that he has difficulty recalling accurate information at times.
- (iii) At paragraph 27 of the decision, the Judge accepts and assumes that the appellant suffers from mental health problems when undertaking the credibility assessment.
- (iv) At paragraph 42 the Judge accepts the appellant's diagnosis.

11. Ms Tariq submitted that the judge observed that the appellant appeared to recall information well during the hearing, which suggested that his condition did not impair his evidence on that day and the appellant's inconsistencies were not solely attributable to mental health.

Ground 2 - Delay in Claiming Asylum

12. In respect of Ground 2 Mr Rahman submitted that the Judge did not properly account for the appellant's reasons for delay, namely his mental health, financial hardship and misinformation, when determining credibility. In developing this submission, Mr Rahman stated that the Judge placed undue weight on delay in isolation which was contrary to the case of Y (China) [2010] EWCA Civ 116. This case was cited in support of the proposition that the assessment required consideration of personal circumstances, mental health and overall context.
13. We sought clarification regarding this citation and reference and asked for the relevant paragraph of the judgment being relied on. Mr Rahman was not able to specify this. Mr Rahman submitted that he understood, having used ChatGBT, that the Court of Appeal in Y (China) [2010] EWCA Civ 116 was presided by Pill LJ, LJ Sullivan LJ and Sir Paul Kennedy. However, the citation [2010] EWCA Civ 116 did not point to the case of Y (China) but to R (on the application of YH) v SSHD. We raised concern about this and referred Mr Rahman to the recent decision of the President of King's Bench Division in Ayinde [2025] EWHC 1383 (Admin) on the use of Artificial Intelligence and fictitious cases, and directed him to make separate representations in writing.
14. In his subsequent written representations, Mr Rahman clarified that Y(China) was a typological error and he sought to rely on R (on the application of YH) v SSHD [2010] EWCA Civ 116 where, when discussing the meaning of 'anxious scrutiny' in asylum claims Carnworth LJ stated at paragraph 24:

As I suggested in AS (Sri Lanka) (para 39), the expression in itself is uninformative.

Read literally, the words are descriptive not of a legal principle but of a state of mind:

indeed, one which might be thought an “axiomatic” part of any judicial process, whether or not involving asylum or human rights. However, it has by usage acquired special significance as underlining the very special human context in which such cases are brought, and the need for decisions to show by their reasoning that every factor which might tell in favour of an applicant has been properly taken into account. I would add, however, echoing Lord Hope, that there is a balance to be struck. Anxious scrutiny may work both ways. The cause of genuine asylum seekers will not be helped by undue credulity towards those advancing stories which are manifestly contrived or riddled with inconsistencies.

15. Ms Tariq submitted that the Judge found the appellant’s explanation unconvincing and noted lack of evidence from 2011. The asylum interview was on 20 February 2024 and this was reviewed by Mr Hossain. However, Mr Hossain’s psychological report did not specify that the appellant had difficulty recalling information during his asylum interview and there was no corroborative medical evidence of the appellant’s mental health difficulties prior to February 2025. Ms Tariq submitted that, properly considered, the Judge’s conclusion on credibility at paragraph 27 demonstrated that there was no error of law in the decision. The Judge decided that there was no evidence of the appellant’s symptoms in 2011 and that any medical symptoms would not have provided an excuse for not claiming asylum for 11 years.

Materiality

16. Mr Rahman submitted that the errors are material as there was continuing influence of Awami League in positions of power within Bangladesh. Mr Rahman referred to Barrister Solaiman Tusher’s article dated 3 February 2025, Dhaka Tribune newspaper report dated 22 February 2025 and the Chittagong Hill Tract newspaper report dated 1 February 2025 in support of this submission.
17. Ms Tariq stated that even if there was an error of law the Judge’s conclusion at paragraph 40 meant that it was not material. The Judge concludes that:

40. Having considered all of the objective evidence with great care, as well as the witness evidence, I find that whatever his level of involvement with the BNP, there would be no risk to him now. I have seen no evidence that would lead me to conclude that the CPIN is incorrect in its assessment. I have found that the appellant fears the Awami League, and they are no longer in power. Their influence is waning considerably, and the reform process is underway to change state institutions.

Conclusions

Ground 1

18. We were not persuaded that the judge gave insufficient consideration to the medical evidence for the reasons given below.

19. S v SSHD [2006] EWCA Civ 1153 Rix LJ held at [32] as follows:

32. *I would also refer to the AIT determination of 25 November 2005 in HH Medical Evidence Effective Mibanga Ethiopia [2005] UKAIT 00164. The tribunal there said:*

"20. In the present case it is manifest that the immigration judge has arrived at his conclusions as to credibility by looking at the evidence in the round. At paragraph 16 of the determination he reminded himself that 'I must look at the case in the round in light of all the relevant circumstances'. At paragraph 20 the immigration judge confirmed that he had 'considered the appellant's evidence in the round together with the background evidence and her interview record'. Plainly the medical report was part of the appellant's evidence.

21. The tribunal considers that there is a danger of Mibanga being misunderstood. Judgments in that case are not intended to place judicial fact finders in a form of forensic straightjacket. In particular the Court of Appeal is not to be regarded as laying down any rule of law as to the order in which judicial fact finders are to approach the evidential materials before them. To take Wilson J's cake analogy, all its ingredients cannot be thrown together into the bowl simultaneously. One has to start somewhere. There is nothing illogical about the process by which the immigration judge in the present case chose to approach his analytical task."

I would approve those comments and emphasise how close the present case is to the circumstances of HH as distinct from those of Mibanga.'

20. From a careful reading of the decision, we find that the Judge considered each aspect of the appellant's position carefully. The central factors for the credibility assessment were:

- (i) that the appellant was a low-level member of BNP [21].
- (ii) the appellant's evidence was inconsistent in the specific respects identified in relation to when he was targeted, when he was arrested and how he later evaded arrest between 2009 and 2011 [23].
- (iii) The appellant's evidence was vague and lacking specific detail regarding arrest [24].
- (iv) The appellant's evidence was vague and inconsistent regarding going into hiding [25].
- (v) The medical evidence was that the appellant's disorders may mean he has difficulty in recalling accurate information at times [25].
- (vi) During the hearing the appellant appeared to have no difficulty recalling information when asked questions [25].
- (vii) The appellant's evidence was simply inconsistent and lacking in detail [25].
- (viii) The appellant was able to leave Bangladesh in 2011 using his own passport [26].

- (ix) It was not plausible that if the authorities were looking for the appellant immediately after his exit he would not have claimed asylum [26].
 - (x) There is no evidence of the appellant's mental health in 2011 [26].
 - (xi) The appellant's mental health problems would not have excused him from claiming asylum for 11 years in circumstances where he said he had been arrested multiple times and was mistreated [27].
21. There is every indication that the judge considered all the relevant evidence in the round. The Judge stated that he took into account Mr Hossain's evidence and that he accepted the current medical evidence that the appellant suffers from mental health problems [25 and 27].
 22. The Judge considered the appellant's answers in the screening interview on 12 August 2022, where the appellant referred to being unable to sleep, being always in anxiety and tension [Question 2.3]. In this interview the appellant stated that he wanted to apply for asylum in 2021 [Question 3.4]. However, he did not apply for asylum until 12 August 2022.
 23. Further, during his asylum interview on 20 February 2024 the appellant stated that he could not claim asylum directly after the expiry of his visit visa in 2012 as he was running out of money, he was a little bit confused and could not take any decision [Question 12]. The appellant's witness statement [14 -15] places a greater emphasis on his mental health and states that he was in a state of emotional and psychological distress, he was struggling with fear, anxiety, and confusion and that he did not have the mental clarity, financial resources, or legal knowledge to understand how to present his asylum case. This assertion was lacking specific detail of the impact his poor health had on his daily life for the significant time period. The appellant's assertions regarding his mental health difficulties in the years from 2011 were not supported by any contemporaneous medical evidence and the appellant did not seek any medical treatment for his mental health difficulties [55].
 24. We carefully reviewed the Judge's reference to how the appellant gave evidence at the hearing and do not find that this was improper in the circumstances. This was one of a number of the central factors outlined above that was considered in the overall credibility assessment.
 25. The Judge considered the evidence and balanced the appellant's mental health difficulties and the impact that they had against the inconsistent and unspecific evidence that the appellant had given [27].
 26. It is noteworthy that the Judge outlined that he had exercised anxious scrutiny, applying the lower standard of proof and concluded that the appellant had not proven his case [41]. Ultimately, having considered the medical evidence the Judge applied the necessary anxious scrutiny and concluded that the appellant's case was riddled with inconsistencies. The medical report from Mr Hossain spoke to the appellant's mental health at the time that it was written and shed no light, as the judge noted, on the

reasons why he had given inconsistent evidence in his written accounts. We do not conclude that there was an error of law in the judge's treatment of that evidence, which was in accordance with AM (Afghanistan) v SSHD [2017] EWCA Civ 1123; [2018] 4 WLR 78 and the important Presidential Guidance Note (No 2 of 2010) cited in Carnwath LJ's judgment in that case.

Ground 2 – Undue weight to delay

27. We were not persuaded that the judge placed undue weight on delay, or that he disregarded other relevant circumstances. The Judge starts his paragraph 27 with the words 'In addition' and then properly considered the application of section 8 of the Asylum and Immigration (Treatment of Claimants) Act 2004. The Judge accepted the current medical evidence and noted that there was no medical evidence of mental health circumstances in 2011. Whilst there was witness statement evidence asserting mental health issues from the appellant and his witnesses in support, specific detail of why the appellant was unable to apply earlier than he did and there was no contemporaneous medical evidence.
28. The Judge considered the lack of consistency, lack of detail and implausibility of the appellant's claim [22 – 26] and at [27] assumes that even if the appellant was suffering from some symptoms, this would not have excused him for not claiming asylum for 11 years in circumstances where he said he had been arrested multiple times and mistreated.
29. We find that it was open to the judge, who had reviewed the evidence in the round, to make that assessment. His approach to section 8 was in accordance with the leading authority on that provision: JT (Cameroon) v SSHD [2008] EWCA Civ 878; [2009] 1 WLR 1411.

Material

30. We accept Ms Tariq's submissions that even if there had been an error of law, it would not have been material. The Judge states that the appellant would not be at risk if returned to Bangladesh [28 and 40]. There is no proper basis to challenge this conclusion. The Awami League is no longer in power. Sheikh Hassina was removed from power in August last year. The judge undertook a careful analysis of the background material before concluding that the appellant would not be at risk even if all that he said was true. We consider that conclusion to have been open to the judge on a fair consideration of the background material before him. The only item of background material which pointed in favour of the contrary conclusion was an article by a barrister named Solaiman Tushar dated 3 February 2025 and even that provided very limited evidence of ongoing political violence against BNP members.
31. For these reasons, the appeal fails.

Notice of Decision

1. The appeal is dismissed.

2. The decision of the First-tier Tribunal did not involve the making of an error of law, and so stands undisturbed.

Benjamin Burgher

Judge of the Upper Tribunal
Immigration and Asylum Chamber

1 July 2025