**IN THE UPPER TRIBUNAL** **Case No.** CPC/3082/2015
**ADMINISTRATIVE APPEALS CHAMBER**

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

**Decision:** **The decision of the First-tier Tribunal made on 11 June 2014 at Fox Court in London under reference SC242/13/1992 involved the making of an error of law. I set the decision aside. I remake the decision.**

**My substituted decision**: **The appellant was born on 22 May 1950 and, accordingly, is not disentitled to pension credit on age grounds.**

## REASONS FOR DECISION

### What this appeal is about

1. The issue raised by this appeal is whether the appellant meets the age requirement in relation to eligibility for state pension credit. She says that she was born on 23 May 1950 but the respondent believes that she was born on 1 January 1963. If the former is right then she is not debarred from qualifying on age grounds but if the latter is correct she is. In addressing the issue I make a number of comments concerning the approach to be taken when considering documentary evidence which has been obtained abroad (see paragraphs 28 and 41) which may be of more general interest.

### Matters which appear to be well established or which are uncontested

2. The appellant was born in Ethiopia and was a national of that county. At some point she obtained an Ethiopian passport which indicated her date of birth as being 1 January 1963. In July 2003 she was granted entry clearance to come to the UK as a domestic worker in a private household. She subsequently entered the UK in August 2003 and received a grant of limited leave to remain on that basis. She subsequently received a series of further grants of leave to remain on the same basis until eventually, in fact on 27 January 2009, she received a grant of indefinite leave to remain. She has subsequently naturalised as a British citizen and her British passport, as did her Ethiopian passport, records her date of birth as being 1 January 1963. Since Ethiopia does not recognise dual nationality she has, presumably, now ceased to be a national of that country. She has previously made claims for employment and support allowance and jobseeker's allowance and has indicated, in respect of both of those claims, a birth date of 1 January 1963. She has applied for pension credit and her completed application form of 4 April 2012 indicates a date of birth of 23 May 1950.

3. The respondent refused the claim because it was considered that she had not attained the qualifying age. That decision was taken on 7 August 2012. The respondent undertook a reconsideration of 28 November 2013 but the decision remained unchanged.

4. The appellant has limited English. She required the assistance of an interpreter at a hearing before the First-tier Tribunal (hereinafter "the tribunal"). However, on 10 July 2013, prior to that hearing, she wrote to the respondent complaining about the way in which her

application for pension credit was being dealt with. She said that what she described as "the discrepancies of date of birth" had occurred as a consequence of dates being wrongly converted by an interpreter from the Julian to the Gregorian calendar. She made reference to this misinterpretation having taken place at a time when she had "sought sanctuary in the UK". The letter was written in English but does not bear the appellant's signature or indeed anyone else's. It is reasonable to suppose, given her limited English, that she was assisted in the preparation of this letter. The letter was not successful in its aim because, as already indicated, the respondent refused the claim on age grounds.

5. Thereafter, on 15 August 2013 the appellant wrote to the respondent indicating that she wished to appeal against the decision to refuse payment of state pension credit. Again the letter is written in English. It is not signed as such but the letter bears her mark. Again, in the circumstances, it is reasonable to suppose that she was assisted in the preparation of this letter. The letter, again, makes reference to confusion regarding dates having been caused by "calendar conversion".

6. Ethiopia has its own ancient calendar. It has much in common with the Coptic Egyptian calendar. It is not the same as the Julian calendar but there are similarities. The Ethiopian calendar is some seven to eight years behind the Gregorian calendar owing to alternate calculations in determining the date of the annunciation of the birth of Jesus.

**The appellant's account of relevant events**

7. The appellant, assisted by a local advice centre ("the advice centre") provided a statement for the tribunal. The copy contained in the Upper Tribunal's bundle is not signed by her. However, what she has to say in that statement, which was provided to the tribunal on her behalf, is summarised below.

8. She asserts that she was born in Ethiopia on 23 May 1950 (Gregorian calendar) which equates to 15 September 1942 (Ethiopian calendar). She was baptised in the year of her birth. Her early years were difficult because of poverty and the passing of her father when she was only three. When she was aged eight she went to live with an aunt who subsequently passed away two years later. She is unsure whether her mother knew of her aunt's death but her mother did not come to collect her as a result. She was taken in by a distant relative with whom she lived in Ethiopia until the age of 13. Thereafter, she and that relative travelled to Sudan, where they entered in a clandestine manner, and the appellant obtained some work with a Sudanese family. She lost touch with her relative but worked with that family for a three year period until she was aged 16. She then obtained different work, which she carried out for a period of six years and that employer forced her to convert to Islam. She says that she then obtained a number of jobs as a domestic worker with a number of different families until she attained the age of 39 years. None of this work was official because she did not have permission to be in Sudan and did not have any formal identity documentation. However, an agent secured her some employment as a domestic worker in Saudi Arabia for a two-year period and that agent, it seems, secured some paperwork which meant she could take the job. That employment ended after two years and the appellant returned to Sudan and opened a shop. However, after a further two-year period, she closed the shop because it was not making a profit. By then, she says, she was aged 43. After that, again with the assistance of an agent, she obtained employment as a domestic worker with a family in Qatar. The agent, though, told her that the family in Qatar only wished to hire young domestic workers and that

if she could not demonstrate that she was no older than 30 years she would not get the job. She says that she approached the Ethiopian Embassy in Khartoum, sought a passport, and was granted one on the basis that she had been born on 1 January 1963. That is what she had told them. The passport was issued on 20 July 1993. So, it showed her as being aged 30. She says that she then travelled to Qatar in August 1993 and worked with a particular family there for four years and six months. She then worked for a year with a second family and another year with a third family. She then obtained further domestic work with a Sudanese psychiatrist who was based in Qatar and she worked for him and his family, in that country, for three and a half years. The family moved to the United Kingdom in 2003 (when she says she was aged 53) and brought her with them as their domestic servant. The family assisted her in obtaining entry clearance and the grants of limited leave and the grant of indefinite leave which followed.

9. The appellant says that she started to suffer from a number of medical conditions which might be regarded as age-related. She says that she was aware that she was far older than what was indicated in her passport though, at that time, she did not know precisely how old she was. She has said that she is illiterate and has had no education. She did, though, travel to Ethiopia in 2011 and attempt to obtain documentation which would indicate how old she was. She says that eventually she was able to obtain some documentation (she has produced what is said to be her birth certificate and her baptismal certificate) and that she was assisted in obtaining it by her brother.

10. It is the appellant's case that when she came to the UK she was effectively fixed with the false date of birth on her Ethiopian passport and did not feel in a position to indicate the truth. That is why, in consequence, the British passport also contains the 1 January 1963 date of birth and it is also why when she claimed other benefits, in earlier years, she continued to use that same date. She avers, though, that she has now established her true date of birth and that, in consequence, she does meet the qualifying age criteria. She also says that the birth certificate and the baptismal certificate are genuine documents which indicate her true date of birth.

**The respondent's case**

11. This was put in a written submission prepared for the tribunal hearing. Essentially, the respondent thought that it was significant the appellant had obtained a British passport with the 1 January 1963 date of birth and had made claims for benefit using that date of birth. It was, said the respondent, "inherently improbable" that the authorities would issue the appellant with a British passport with an incorrect date of birth. The birth certificate and the baptismal certificate did not assist the appellant because they could "quite feasibly belong to a female relative with the same name". Although the appellant had now produced a medical card showing her date of birth as being 23 May 1950, she had previously possessed a medical card, issued earlier, showing her date of birth to be 1 January 1963. So, on age grounds, she was not entitled to pension credit.

**The appeal before the tribunal**

12. There was an oral hearing which took place on 11 June 2014. The appellant attended and gave oral evidence with the assistance of a Tigrinya speaking interpreter. She was represented by a Mr Mohar of the advice centre. The respondent was represented by one Ms Ireland, a presenting officer. The time of commencement and ending of the hearing is not

recorded on the tribunal's record of proceedings but it does not appear to me, in looking at that record that the hearing was a lengthy one at all. Be that as it may, the tribunal dismissed the appellant's appeal finding, specifically, that she had been born on 1 January 1963. Thereafter, the advice centre, on behalf of the appellant, asked for the decision to be set aside but that request was unsuccessful. The tribunal, though, went on to issue its statement of reasons for decision (hereinafter "statement of reasons") in which it explained its decision. It is clear from the statement of reasons that it did not find the appellant to be a witness of truth. At paragraph 2 of its statement it described her evidence as being:

> "Hesitant, contradictory and unconvincingly given."

13. As to the documentation the appellant had produced in support of her contention regarding her age, the F-tT having in mind a statutory declaration she had made in 2012 and the birth certificate and baptismal certificate, said this:

> " 3. I found the documents produced in support of her appeal to be self-serving and, either belonged to someone else with a similar name, or most likely falsified (see e.g. pages 35, 36-37); I take judicial note of the fact that such 'official' documents are easily obtained from Ethiopia. I noted that the appellant said that she only found out her real date of birth in 2011 when she went to her country of birth, but she could not explain how, for example, it is that the 'birth certificate' (page 36) was dated '2005'."

14. As to the appellant having initially indicated, in the letters of 10 July 2013 and 15 August 2013 referred to above, that the discrepancy regarding her birth date stemmed from the differences between different calendars and her subsequent different explanation contained in her statement and maintained in oral evidence, the F-tT said this:

> " 4. The appellant had originally asserted that the difference in her date of birth arose because it was said there was a different calendar used in Ethiopia from that used in the UK (see e.g. pages 2 and 31). When it was noted that the 'conversion' from one calendar ('… from Julian to Gregorian calendar …') to the other did not in fact assist the appellant, her reasons for the appeal changed entirely. I found this inconsistency in her evidence to weigh heavily against her credibility. Her revised reasons for her appeal and the discrepancy was a convoluted story about how she had to change her date of story [birth is clearly meant] in order to secure employment in Qatar after she left her country of origin. I found this account unconvincing, not least because the appellant was hesitant when giving evidence about this."

15. As to the British passport and her medical card the F-tT said this:

> " 5. I noted that the appellant was now a British citizen and her British passport (issued 31/05/2011) record her date of birth as 01/01/1963 (see page 34). I am aware that in order to obtain her British citizenship and her British passport, the appellant would have needed to provide documentary evidence of (amongst other evidence) her date of birth or made sworn declarations as to facts that she had asserted on her application. Her original medical card (issued 12/03/2010) record her date of birth as 01/01/1963 (page 40), and she later had changed (page 38), but I note that this is easily done. She said that she had used the 1963 date of birth to claim other benefits, including JSA and ESA. I find it unlikely that the appellant did not use her correct date of birth or made more of an effort to change it on her passport and her record of citizenship."

16. Those, then, were the reasons why the appellant's appeal failed.

**The permission stage**

17. The appellant sought permission to appeal to the Upper Tribunal. By then she was no longer represented by the advice centre. Permission was originally refused by a district tribunal judge of the First-tier Tribunal but I granted permission after an oral hearing of her application which she had sought. In fact, prior to that hearing I received a commendably fair, detailed and helpful submission from Mr K McClure on behalf of the respondent. I will say more about the content of that submission below but, for the moment, it is sufficient to say that he supported the granting of permission and suggested that, in fact, the F-tT had erred in law (not just arguably so) in a number of ways. The salient part of my grant reads as follows:

> " 2. Having regard to what has been said and what has been written I am satisfied that the First-tier Tribunal may have erred in law. In particular, it is arguable that it failed to adequately consider and address the various points made in the applicant's undated but detailed statement which appears to have been prepared with the assistance of her former representatives at [the advice centre]; it is arguable that it took the wrong approach to the lack of contemporaneous official documents bearing in mind what was said in *CG/1782/2004*; it is arguable that it wrongly assumed documents produced by the applicant were false simply because it is the case that false documents may be obtained in Ethiopia; it is arguable that it attached too much weight to demeanour when making its adverse credibility assessment; it is arguable it failed to consider the possibility that the date of production of the applicant's Ethiopian birth certificate was the date according the Ethiopian rather than Gregorian calendar such that it wrongly perceived an inconsistency and that, in general terms, its adverse credibility finding was not sufficiently reasoned."

**The further proceedings before the Upper Tribunal**

18. Mr McClure had indicated that he was content for his written submission prepared for the purposes of the permission application to stand as his submission on the appeal in the event of permission being granted. Accordingly, I did not require a further submission from him. It is appropriate, though, for me to summarise some parts of his submission at this stage.

19. Mr McClure, first of all, thought that there might have been some form of procedural error on the basis that the documents submitted by the advice centre in support of the appeal (in particular the statement) were not actually before the F-tT when it heard the appeal. If not then that would, he said, amount to a breach of natural justice. He thought that when the F-tT was commenting upon the difference between the initial explanations regarding the calendars and the later explanations as to how the date of 1 January 1963 had come to be on the British passport, it was referring to a change of account which had been given orally at the hearing. Thus, he suggested that the F-tT had wrongly formed the view that she had simply changed her story on the date of the hearing whereas she had, in fact, provided detailed written information regarding that story beforehand.

20. Secondly, Mr McClure referred to three decisions of Social Security Commissioners which addressed the risks involved in making assumptions regarding evidence obtained from particular countries. Those decisions are *CP/1727/2000*, *CG/1782/2004* and *CP/4062/2004*. In particular, with respect to documentation confirming the registration of life events, he

pointed out the words of Commissioner Jacobs (as he then was) who had commented upon the frequent lack of contemporaneous documentary evidence of births or marriages in cases such as this and had said:

> "This is an inevitable feature of cases involving countries in which there is no reliable system of registration of important life events like birth, marriage and death. It is a neutral factor in the assessment of the evidence. It hampers the genuine claimant in making her case, while providing an opportunity for deceit by the dishonest claimant. The decision-maker and the tribunal have to decide whether the claimant is genuine or dishonest. It is wrong to approach that task by taking the lack of contemporaneous evidence as a factor that is against the claimant. To do so would be to assume what has to be decided."

21. Mr McClure suggested that the F-tT had not paid heed to those words. Further, in contemplating the possibility that the documents might belong to somebody else (a relative with the same name) it had failed to remind itself that if the Secretary of State was asserting that, and such had indeed been asserted in the Secretary of State's submission to the tribunal, then it was for him to establish that was so on a balance of probabilities. As to the seemingly preferred view of the tribunal that the documents had been "falsified" Mr McClure suggested that there was some evidence that official documents are falsified in Ethiopia as in many other countries but expressed the view that the approach taken by the tribunal was to say that because the claimant had produced supposedly official documents from Ethiopia and because false documents may be obtained in Ethiopia then the documents she had produced must have been false.

22. Mr McClure then went on to address matters of potential relevance to the remaking of the decision and I shall turn to those points later.

23. I afforded the appellant an opportunity to comment upon Mr McClure's submission. She availed herself of that opportunity. In so doing she made reference to the letter of 10 July 2013. She said it had been prepared by someone at the Kilburn Advice Centre but that it contained incorrect information in that it wrongly stated she had "sought sanctuary in the UK". Further, contrary to what seemed to be suggested in the letter, she had never been in a situation where her date of birth had to be converted from the Ethiopian calendar to the Gregorian calendar such that there had been no scope for an interpreter to misinterpret anything. She made the point that she had never applied for asylum in the UK (and hence she had not "sought sanctuary") and reiterated that she had arrived as a domestic worker with her then employer. She further reiterated her lack of education and her inability to read and write (as I understand it that is an inability to read or write in any language) and said she had been reliant upon the advice centre for setting out correct information and implied that, in effect, she had been let down.

**Did the tribunal err in law?**

24. I am satisfied that the tribunal did err in law for the reasons set out below.

25. I do not think it is the case, despite Mr McClure's interpretation of the position, that the F-tT did not have the appellant's written statement before it when it considered her appeal. I think the reference to what it described as a "convoluted story" is likely to have been a reference to what is set out in the statement. I say that because, although the record of

proceedings is in parts quite difficult to read, it does not appear to show that the tribunal heard a detailed account from her regarding her early life in Ethiopia and her subsequent life in Sudan and Qatar prior to coming to the UK. Further, the positioning of the documentation in the bundle, and its numbering, does suggest that it was received by the tribunal and was placed in the tribunal's bundle prior to the hearing.

26. The tribunal did not, in fact, accept the truth of the detailed account the appellant had offered in her statement. The account was significant because it did afford an explanation as to how the date of 1 January 1963 came to be in her British passport. So, it seems to me that it merited close examination. The tribunal did not believe the account because, according to what it said at paragraph 4 of its statement of reasons, it found the inconsistency with the explanation offered in the earlier letters (a simple reliance on the different calendars) to weigh heavily against her and because it found the account to be unconvincing anyway "not least" because of what it thought was her hesitancy when giving evidence about it. However, in my judgment it did not sufficiently examine the inconsistency it had identified or sufficiently enquire into the ways it might have come about. According to the record of proceedings it touched briefly on the matter at the hearing but its enquiry seems to have been limited to ascertaining whether the particular representative from the advice centre before it was the same person who had drafted the two earlier letters (it was not). It did not appear to take account of the appellant's illiteracy and it did not appear to make any enquiries of her as to whether she was made aware of the content of the two letters before they were sent on her behalf. Nor did it appear to take into account the fact that the letter of 10 July 2013 has no signature or mark. Nor did it appear to take into account or enquire into the precise circumstances in which those two letters came to be written. In my judgment, therefore, the tribunal failed to properly evaluate matters prior to attaching significant weight to the fact of the inconsistency.

27. The tribunal also erred with respect to its analysis of the documents which had been obtained in Ethiopia being the birth certificate and the baptismal certificate. Of course, the tribunal was not obliged to accept the genuineness or reliability of those documents. However, it does appear, in looking at what it had to say at paragraph 3 of its statement of reasons, that it did, save for one point, perpetrate the legally unacceptable reasoning Mr McClure says it did. That one point is its reference to what it clearly thought was an inconsistency in the appellant's claim that she had only discovered her real date of birth in 2011 and had then set about trying to have a birth certificate issued whereas the birth certificate which was subsequently issued had an issue date of 2005 on it. Clearly, if the appellant really had discovered her "true" date of birth in 2011 and had then had a certificate issued, it could not have been issued in 2005. However, it is not clear whether the date of 28 January 2005 appearing as the date of issue of the birth certificate is a date in the Ethiopian calendar or the Gregorian calendar. The tribunal appear to have assumed that the Gregorian calendar was being used though it might make more sense to think that official documents in Ethiopia would use the Ethiopian calendar when recording the date of issue on the face of a document. If that date of issue is in the Ethiopian calendar then that would appear to suggest that it would have been issued in early 2013 (Gregorian calendar). That might be said to tie in with the appellant's indication, in oral evidence, that she had visited Ethiopia in 2011 and that the documents had then been sent on to her by her brother after they had been produced. Further, I note from the record of proceedings that she did say in her evidence that the 2005 date was from the Ethiopian calendar. So the tribunal erred in failing to consider that possibility and in failing to address what the appellant had said about it, prior to taking that point against her.

28. The tribunal did appear to find, to the necessary standard, that the documents had, indeed, been falsified. I accept Mr Mc Clure's submission that, in so doing, it does appear to have adopted a presumptive approach on the basis that false documents are easily obtained in Ethiopia. It might be the case that that is so but it does not follow that a document produced in Ethiopia is necessarily false. The tribunal, though, seem to have adopted that approach or, at the very least, to have come very close to so doing. A better approach would be to form a view about general credibility and then use that to inform as to the likelihood of disputed documents being genuine or not rather than to assume documents are not genuine merely because they are not contemporaneous with the life events they purport to evidence or because the country in which they were issued is a country known for the ease with which false documents may be obtained.

29. Finally, I have concluded that the tribunal, more generally, failed to adequately explain its adverse credibility finding. It said, twice, that the appellant had been hesitant in giving her evidence. It did not give a single example of hesitancy and although it said, in more broad terms, that she had been hesitant about giving her account of her life in Ethiopia, Sudan and Qatar it does not seem, from the record of proceedings, that she was taken through that account. Further, it did not say whether her evidence in other areas, perhaps non-controversial areas, was hesitant too. If it was then that might point to her hesitancy on contested matters not being a significant consideration. It said that her evidence had been "unconvincingly given" but it did not explain that. In what way was it unconvincingly given? Is that a different point to the hesitancy one or just a way of saying the same thing twice? A reader of the statement of reasons will be left uncertain about such matters. Of course a tribunal is perfectly entitled to disbelieve a claimant or a witness. If it is doing so it must, though, provide an adequate (although no more than that) explanation as to why. It is not required to, for example, give a lengthy list of inconsistencies or implausible claims but it should be prepared to give one or two examples to illustrate to a reader of a statement of reasons what it has in mind. It does seem to me that this tribunal did not do that.

30. I must conclude, therefore, that the credibility assessment upon which the tribunal relied is flawed through legal error. Accordingly, as I am in fact urged to do by both parties, I set its decision aside.

31. Before moving on I would like to make one more observation. I appreciate that some of my comments may seem like heavy criticism of the tribunal and the approach it took. I do not mean it to sound that way. I appreciate that tribunals often have to deal with a large number of appeals in a short space of time and that lists are often heavy and time estimates sometimes inadequate. It may well be that this case justified more time than was allocated and more than seemed to be available on the day it was heard. Of course, estimating the likely duration of a hearing for listing purposes is an inexact science. In light of that it does seem to me that if a tribunal feels it will not have time to do justice to a particular case within the time constraints it is facing then, depending upon the particular circumstances, it may well be appropriate for it to at least consider adjourning and revising the time estimate upwards.

**Remaking**

32. I have considered whether to remake the decision myself or whether to remit to a new and differently constituted tribunal. Remittal would afford a further opportunity to probe the appellant's evidence in more detail and, in particular, to further explore the inconsistency

between what is said in the two letters and what is said in her statement. On the other hand, I now have the assistance of Mr McClure's submission which may well aid in the remaking process and I have further documentation which will assist that process and which has been provided after the tribunal produced its decision. Of course, that material was not to be taken into account when considering setting aside but may now be taken into account on remaking so long as it informs as to what the situation was as at the decision date. Further, it has now been some considerable time since the decision under appeal was made. It was made as long ago as 7 August 2013. I have concluded, therefore, that in all the circumstances I should go on to remake the decision myself.

33. In so doing I have noted the inconsistency which the tribunal identified between what is said in the letters of 10 July 2013 and 15 August 2013 regarding how the date of 1 January 1963 came to be in the appellant's British passport and what is said about that in her statement. The two are, of course, completely different. They cannot be reconciled so either one of those explanations is incorrect or both of them are. There is, in fact, considerable reason to doubt the reliability of the information which is contained in the letters. First of all, the letter of 10 July 2013 makes reference to the appellant having "sought sanctuary in the UK" and goes on to refer to, seemingly as part of that process, an interpreter error being made regarding conversion dates. The reference to "sanctuary" appears to be a reference to a claim for asylum. The appellant says that she never made a claim for asylum and, indeed, as part of the process of her seeking to challenge the tribunal's decision, she has produced some photocopies of immigration stamps from her passport which demonstrate that she was granted a series of limited grants of leave to remain on the basis of her employment as a domestic worker in a private household and that, subsequently, her having been here for a period of some length, she was granted indefinite leave to remain. Those extracts from her passport support her contention that she did not seek asylum in the UK. As to the reference to dates being "incorrectly converted by the then interpreter", what normally happens when a person seeks asylum in the UK is that they are interviewed by a Home Office official about their claim and, in such circumstances, if required, an interpreter is provided. However, since the appellant clearly did not pursue an asylum claim, as it seems to me the extracts from the passport make clear, she would not have been interviewed and there would not have been an interpreter present. So there would not or may not have been any scope for the sort of interpreter error suggested. To my mind it is difficult to see why the appellant would deliberately inform the person writing the letter on her behalf that she had been granted asylum if that were not the case. She would not seem to have anything to gain or any reason to think she would have anything to gain by doing that. I also note that it is said in the same letter that dates of birth in Ethiopia "are recorded in Julian calendar as opposed to the Gregorian". Strictly speaking that does not seem to me to be correct. The Ethiopian calendar is not the same as the Julian calendar despite similarities. The appellant is from Ethiopia where the Ethiopian calendar would have been used. It would be surprising, therefore, if she had informed the author of the letter that a mistake had been made in converting dates from the Julian, as opposed to the Ethiopian calendar, to the Gregorian calendar.

34. The appellant, as I understand it, now seeks to suggest that there were shortcomings at least on the part of the individual from the advice centre wrote those letters. Of course it is odd to think that letters would have been sent out on her behalf without her verifying the contents but the particular concerns referred to above rather suggest, to my mind, that (and of course I have not heard anything from the advice centre) it is at least possible that there was some sort of misunderstanding. So, against that background, I do not perceive the obvious

inconsistency which there is in the documentation to be so damaging to the appellant's credibility that it is not beyond repair.

35. The appellant has provided, as I have indicated, a highly detailed account of her life from being born in Ethiopia to her being brought to the UK as a domestic worker. The tribunal seemed to doubt the account in part because of its convoluted nature. However, I cannot see that a convoluted account, of itself, is an account which should be doubted solely on that basis. The account, in fact, contains much specific detail which is not really pertinent. For example, if the appellant were simply giving a false account in order to artificially explain away the date of birth in her British passport, she would not have had to explain all the detail she gave about numerous different employers or about other aspects of her life in Ethiopia or Sudan. She could, instead, have simply said that she was in difficult circumstances in Ethiopia and had been to Sudan and whilst there had obtained a passport which showed a later date of birth so that she could satisfy a prospective employer in Qatar that she was young enough to work for him when she was not. So, to my mind, the elaborate detail in the account suggests, to some extent at least, that that account might be true. Further, the passport extracts do lend corroborative support for part of her account. That is because she says she was employed abroad as a domestic worker in a private household and she would have had to demonstrate that that was so employed before being granted entry clearance to come to the UK to work for the same employer in a private household here.

36. I do have a difficulty with the appellant's seeming ability to remember, with a considerable degree of precision, the length of time she was with various employers in Sudan and the Middle East. Of course, that precise recollection is important in her ability to demonstrate that she has totted up sufficient years for her to be of the age she claims to be. It might perhaps be thought that her not knowing when she was born and not having any education and not being literate in any language would militate against an ability to remember periods of time with such precision. However, there are other reasons for thinking this account or at least aspects of it might be true, as identified above, and I am prepared to accept that, broadly speaking, the time estimates she gives in her statement are at least approximately accurate.

37. There is, of course, the fact that the appellant having, she says, obtained an Ethiopian passport showing her date of birth as being 1 January 1963, subsequently obtained further official documentation bearing that date (not least her British passport) and used that date when making certain claims for benefit which did not depend upon her being of a certain age. So, if what she said about the issuing of the Ethiopian passport and why it was issued with the date of birth it was is true, then she was effectively dishonest when obtaining her British passport and when applying for employment and support allowance and jobseeker's allowance. However, I do find it plausible that as an illiterate and uneducated person she would have regarded herself, in effect, as being fixed with the date in that passport and, until it seemed to matter, would have been reluctant to have departed from it in her dealings with officialdom in the UK.

38. There is then, of course, the birth certificate and the baptismal certificate. The appellant continues to rely upon these documents and she has, since the decision of the tribunal, produced a letter issued by the Ethiopian Embassy in London stating that they are able to confirm that those documents are "valid".

39. I do not think that the letter from the Ethiopian Embassy takes matters further. The letter does not explain what checks, if any, were carried out to confirm the validity of the two certificates prior to the letter being issued. Nor does the letter explain what is meant by "valid". If a document has been issued by an appropriate government department but the government department has recorded the date of a life event appearing on the document (such as a birth) simply on the basis of what it has been told by the person seeking it, then whilst the document might be "valid" in that it has been properly issued, the question of whether the information contained within it is reliable or not is dependent upon the informants (in this case the appellant's) honesty, knowledge and recollection. That is why I say that the letter, of itself, does not take matters further.

40. As to the documents themselves, the birth certificate was clearly not issued at the time of the appellant's birth or anything like it. It was, if the appellant is to be believed, issued in or around early 2013 in consequence of her seeking it having learnt, she says from family, that she had been born in 1950. She also says that she obtained the baptismal certificate at a late date her having asked for it when she visited Ethiopia in 2011 and its having then been forwarded to her, some time later, by her brother. There is no evidence before me to indicate whether the Ethiopian church which issued the baptismal certificate keeps records dating back to 1950. If it does not then, of course, again, it seems very likely that the certificate would simply be issued on the basis of assurances from the person seeking it.

41. The respondent, of course, submitted that the documents might simply belong to a relative with the same name as the appellant. That seems to me to be highly speculative and there is nothing at all to support it. I reject it. There is the question of whether the documents are forgeries, the original tribunal of course thought they were, and I am quite prepared to accept that it is possible to obtain fraudulent documents in Ethiopia just as, of course, it is possible to obtain fraudulent documents, in the right circumstances, I imagine in pretty much every country in the world. There may, of course, be significant variations in the ease with which fraudulent but apparently genuine documents might be obtained. It seems to me that where an allegation of fraud is being made by a party then it will be necessary for the asserting party to prove it to the requisite standard which, here, is a balance of probabilities. Here, though, I cannot see that the respondent did actually submit to the tribunal that the documents were forged. It also seems to me that it will seldom be necessary for a tribunal to reach a definitive view as to whether a document is forged or not. Rather, the inquiry should be directed more as to whether any weight can be attached to the documents provided by a claimant having regard to the evidence as a whole and a claimant's general credibility. There may also be other reasons, irrespective of the veracity of any allegation as to forgery, as to why documents cannot be accorded weight. In this case I have decided, whilst I do not on balance find the appellant to be dishonest, that the documents cannot be accorded weight because of the lack of any evidence and information concerning the existence of or accuracy of record keeping on the part of the church or the relevant government department responsible for issuing birth certificates. So, as it turns out, the documents assist neither the appellant nor the respondent.

42. Finally, in my consideration of evidence, I turn to certain letters written by the appellant's medical practitioners which have been supplied after the tribunal hearing. One of those, written by a consultant who had treated her in 2007, suggested that she "looks a little older" than what was then regarded as her age based upon the 1 January 1963 date of birth.

Another written by her GP on 13 February 2015 states her date of birth as being 23 May 1950 and contains this wording:

> "There is a copy of documentation from Ethiopia [Eritrea is crossed out and Ethiopia written in pen as an amendment] on her medical notes confirming the above DOB. I have no reason to question this as her current health and physical status is in keeping with that of a 64 year old woman."

43. That is not the best possible evidence of a medical nature regarding her age. There is nothing to suggest that either the consultant or the GP are experts with respect to age assessments. Neither letter contains any detailed explanation as to why it is thought she is older than a date of birth of 1 January 1963 would make her. However, both letters do seem to contemplate her being older than that and the GP does seem to have considered her "health and physical status" prior to taking the view that such would be in keeping with an age of 64 as at the date the letter was written. There is no reason to suppose that the view of the GP is anything other than an independent one and it is likely to be informed as that GP, will, of course, have access to her medical records and appears to be very familiar with her various medical difficulties as the main body of the letter confirms. I have decided, therefore, that I am able to attach weight of some substance to this medical evidence and, in particular, the letter written by the GP. It is a matter which weighs, to a fairly significant degree, in the appellant's favour.

44. In considering all of the above, whilst there are certainly imperfections in the evidence which is probably a common feature in cases such as this, I have concluded that it is more likely than not that the appellant was born on 23 May 1950 as she asserts. I have regard, in particular, to what I find to be a plausible explanation as to why she obtained a passport in Khartoum indicating something different and why she subsequently simply adopted that date for the purposes of dealings with officialdom after coming to the UK. I also note that there is some documentation to corroborate part of her account of events, that being the evidence that she did obtain a passport in Khartoum and that she did work as a domestic worker in a private household and came to the UK on that basis. I also note and, as I have indicated, attach weight to the medical evidence. Accordingly I am able to remake the decision in the appellant's favour in the terms indicated above.

**Conclusion**

45. The appellant's appeal to the Upper Tribunal succeeds. The decision of the First-tier Tribunal is set aside. The decision is remade in the terms set out above.

**Signed**

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

**Dated:** **1 April 2016**