



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

Appeal Number: IA/47645/2013

**THE IMMIGRATION ACTS**

**Heard at Manchester**

**On 27<sup>th</sup> August 2014**

**Determination**

**Promulgated**

**On 1<sup>st</sup> September 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**MR ADBUL SALAM  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Iqbal, Zacharia Solicitors

For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Mr Abdul Salam date of birth 2<sup>nd</sup> June 1980, is a citizen of Pakistan.
2. I have considered whether any of the parties to the present proceedings requires the protection of an anonymity direction. Taking account all of the circumstances I do not consider it necessary to make an anonymity direction.

3. This is an appeal by the appellant against the determination of First-tier Tribunal Judge De Haney promulgated on 18<sup>th</sup> March 2014. By the determination the judge dismissed the appeal against the decisions of the respondent dated 1<sup>st</sup> November 2013 to refuse to grant the appellant further leave to remain in the United Kingdom and thereupon to remove the appellant from the United Kingdom to Pakistan.
4. By decision taken on 27 May 2014 Upper Tribunal Judge Clive Lane granted permission to appeal in the following terms: --

It is arguable that the First-tier Tribunal's consideration of the best interests of the child was flawed. In particular, it is arguable that the First-tier Tribunal has failed to consider adequately the appellant's submission that the best interests of the child would require the existing contact arrangements in the United Kingdom to continue.

#### 5. Historical Background

- a) Kauser Mahmood and the appellant married sometime prior to 2009 in Pakistan. After the marriage Kauser Mahmood returned to the United Kingdom.
- b) In the United Kingdom she gave birth to the child of the marriage on 11 February 2009.
- c) From 2010 onwards that child was living with his maternal grandparents. It does appear that social services were monitoring the best interests of the child.
- d) No steps were taken by the appellant to seek to enter the United Kingdom to visit his child between 2009 and 2012.
- e) In 2012 social services carried out a complete assessment of the best interests of the child including investigating whether or not it would be appropriate for the child to be placed with his father in Pakistan. The conclusion by social services is that that was a possibility.
- f) On 1<sup>st</sup> June 2012 the appellant entered the United Kingdom on a Visit Visa with a view to pursuing the possibility of the child returning to Pakistan to live with him.
- g) For whatever reason the prospect of the child returning to Pakistan became unacceptable and the child was placed in the long-term care of his maternal grandparents.
- h) There was a full Family Court assessment of the best interests of the child. That Family Court assessment resulted in an agreed order of 15 April 2013. That order confirmed that the best interests

of the child were to be met by being placed in the long-term care of the maternal grandparents.

- i) The order also provided that the appellant was permitted direct contact with the child to take place alternate weeks for two hours whilst he was in the United Kingdom. The order also made provision for further contact between the appellant and the child by telephone twice a week to be supervised. The final part of the order specifically states that when the appellant is in Pakistan contact between the appellant and the child will take place on by Skype and by other indirect means such as letters, photographs and cards.

6. The Family Court had clearly assessed the best interests of the child and found that the best interests of the child were to remain in the maternal grandparents care. Thereafter there was to be contact with the appellant but that that contact could be indirect.
7. The Family Court was the appropriate forum to assess the best interests of the child and suitable orders have been made to give effect to those best interests.
8. The issue before the First-tier Tribunal was whether or not in light of the Family Court order the best interests of the child required that the appellant be allowed to remain in the United Kingdom to continue direct contact.
9. The maternal grandparents are taking the day-to-day responsibility for the child. There is no suggestion that the child is in any way being deprived. All the emotional and material needs of the child are being met whilst the child is in the care of the grandparents. The Family Court have clearly had in mind the fact that the appellant may return to Pakistan. The family court were satisfied that the best interests of the child could be adequately met by maintaining indirect contact with the appellant by means of Skype, letters and other forms of communication.
10. In light of the orders made by the Family Court the Judge was entitled to conclude that the best interests of the child were adequately met by the orders made by the Family Court and entitled to find that there was no need for the appellant to be given leave to remain in the United Kingdom in order to protect those best interests. Family Court had clearly been aware of the need to maintain contact between father and child and had made appropriate orders to ensure that.
11. The judge was obliged to consider whether or not the decision is taken were proportionately justified in light of the Family Court order. The judge has properly considered all the circumstances of this case and was entitled to come to the conclusion that he did on the basis of the evidence presented.

12. There is no error of law in the original determination. I uphold the decision to dismiss this appeal on all grounds.

Signed

Date

Deputy Upper Tribunal Judge McClure