

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

Appeal Number:  
IA/10883/2014



**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 14 April 2015**

**Determination**

**Promulgated**

**On 27 May 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DRABU CBE**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**Mr MANDEEP SINGH**

(ANONYMITY DIRECTION NOT MADE)

Respondent

**Representation:**

For the Appellant: No appearance by or on behalf of the appellant

For the Respondent: Mr P Nath, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant in this appeal before me is the Secretary of State who appeals against the decision of Judge Reidy Flynn, a Judge of the First Tier Tribunal, allowing the appeal of the respondent, Mandeep Singh, a citizen of India.
2. The respondent had been refused further leave to remain by the appellant on 13 February 2014 for reasons specified in her decision letter. The appellant's appeal against the decision was heard at Taylor House on 17 October 2014. No one was present at the hearing - neither the appellant Mandeep Singh nor a representative of the Secretary of State. The appellant's solicitors had requested that the appeal be determined on papers and the respondent had not sought an oral hearing either. Accordingly the appeal was

determined on papers. Judge Reidy Flynn allowed the appeal for reasons given in the determination promulgated on 26 November 2014.

3. The Secretary of State sought and was granted permission to appeal the decision of the Judge Reidy Flynn by Judge Brennan, a Judge of the First Tier Tribunal. In the decision dated 15 January 2015, Judge said, "The grounds on which permission to appeal is sought submit that the Judge misdirected herself as to the provisions of the Immigration Rules, in particular paragraph 41-SD of Appendix A and paragraph 245AA or failed to apply those provisions. These grounds are clearly arguable."
4. For the hearing of the appeal before me the solicitors who had represented the Mr Singh previously had written to say that they were no longer representing him. Mr Singh was not present and nor had he sent any explanation for his absence or a request for adjournment of the appeal. I noted from the case file that he had been sent the notice of hearing on 25 February 2015 by first class post as had his solicitors, Farani.Javed.Taylor Solicitors.
5. In the circumstances and acting in the spirit of the Procedure Rules enjoining expeditious disposal of appeals, I proceeded with the hearing in the absence of Mr Singh.
6. Having carefully gone through the written decision of Judge Reidy Flynn, I find that the grounds tendered in support of the application are made out. The relevant provisions ie. Appendix A para 41-SD are mandatory and do not give discretion to look at reasons for non production of specified evidence under para 41-SD. The Secretary of State's reliance on the decision made by the Upper Tribunal in Fayyaz [2014] UKUT 00296 (IAC) is sound.
7. The decision of Judge Reidy Flynn is accordingly set aside as it is in material errors of law. I remake the decision and find no evidence of compliance by Mr Singh with the relevant mandatory requirements of the Rules - para 41 SD. The appeal that he had brought against the Secretary of State's decision must therefore be dismissed.

K Drabu CBE

Date: 22 May 2015

Deputy Judge of the Upper Tribunal.

**Anonymity Direction:**

On the facts of this case anonymity direction is neither necessary nor appropriate.

**Fee Award**

The direction made by Judge Reidy Flynn is reversed as the appeal has been dismissed and there can be no award on fees.

K Drabu CBE  
Deputy Judge of the Upper Tribunal