



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

Appeal Number: IA/50959/2013

THE IMMIGRATION ACTS

**Heard at Field House
On April 23, 2015**

**Determination
Promulgated
On April 29, 2015**

Before

**HIS HONOUR LORD BANNATYNE
DEPUTY UPPER TRIBUNAL JUDGE ALIS**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR MUHAMMAD HANIF
(NO ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr Nath (Home Office Presenting Officer)

For the Respondent: Miss Shaw, Counsel, instructed by Lee Valley Solicitors

DETERMINATION AND REASONS

1. Whereas the original respondent is the appealing party, we shall, in the interests of convenience and consistency, replicate the nomenclature of the decision at first instance.
2. The Appellant is a citizen of Pakistan. On July 17, 2013 he was given

leave to remain in the United Kingdom as a Tier 1 migrant. The appellant travelled to Pakistan and on his return to the United Kingdom on November 29, 2013 he was stopped by immigration officers. That day the respondent served a notice refusing him leave to enter and at the same time gave directions for his removal.

3. On December 6, 2013 the Appellant appealed to the First-tier Tribunal under Section 82(1) Nationality, Immigration and Asylum Act 2002 (hereinafter called the 2002 Act), as amended. The matter came before Judge of the First-tier Tribunal Majid (hereinafter called "the FtTJ") on November 3, 2014 and he allowed his appeal in a determination promulgated on November 12, 2014.
4. The respondent lodged grounds of appeal on November 17, 2014. Permission to appeal was granted Judge of the First-tier Tribunal McDade on December 22, 2014.
5. The matter came before us on the date set out above. The appellant was in attendance and represented by his counsel.

PRELIMINARY ISSUE

6. Mr Nath identified two arguable issues. Firstly, the FtTJ had failed to apply the correct standard of proof and secondly, he had made findings in paragraphs [19] and [20] that were unsupported by evidence.
7. Miss Shaw accepted that there was merit in both of the grounds advanced and did not oppose Mr Nath's application.
8. We agreed that the determination contained errors in law in that it contained inadequate reasoning and the FtTJ's findings had no evidential basis. Having considered Part 3, Section 7.1 to 7.3 of the Practice Statement we agreed to remit the appeal back to the First-tier Tribunal for a fresh hearing.
9. We directed that the respondent do serve on the Tribunal and the appellant's representatives copies of the appellant's application form and transcripts of any interviews conducted. These transcripts were essential for the future conduct of the appeal.
10. The parties should ensure compliance with any directions issued in light of the fact the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 will apply to this appeal from hereon.

DECISION

11. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. We have set aside the decision.

12. The appeal is remitted back to the First-tier Tribunal for a fresh appeal hearing under Section 12 of the Tribunals, Courts and Enforcement Act 2007.
13. Under Rule 14(1) The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) the appellant can be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise. No order was made in the First-tier Tribunal and we saw no reason for an order to be made today.

Date: **April 23, 2015**



DEPUTY UPPER TRIBUNAL JUDGE ALIS
IMMIGRATION AND ASYLUM CHAMBER