



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

Appeal no: **OA/00382/2013**

THE IMMIGRATION ACTS

At **Field House**
on **03.02.2015**

Decision signed:
sent **03.02.2015**
out:
04.02.2015

Before:

Upper Tribunal Judge John FREEMAN

Between:

KASHIF KHAN

and

Entry Clearance Officer, ISLAMABAD

appellant

respondent

Representation:

For the appellant: *Mohd. Shahadoth Karim* (counsel instructed by Malik Law Chambers)

For the respondent: Mr S Kandola

DETERMINATION AND REASONS

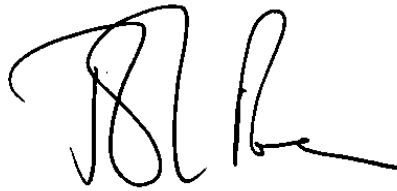
1. This is an appeal, by the respondent to the original appeal against the decision of the First-tier Tribunal (Judge Kareena Maciel), sitting at Newport on 2 September 2013, to allow a husband appeal by a citizen of Pakistan, born in 1978.
2. The judge naturally followed the then leading authority on the question of funding before her (*MM* [2013] EWHC (Admin) 1900), in a way which affected the result she reached, and, with the benefit of hindsight and *MM & others* [2014] EWCA Civ 985, was wrong in law.
3. However, even though the Court of Appeal decision came out in July 2014, nothing was done about the present case till the entry clearance

NOTE: no anonymity direction made at first instance will continue after the time for any application for permission to appeal , unless otherwise ordered by me.

officer noted its effect: finally the application for permission to appeal was filed in November last year. This is frankly explained in section B of the form; but the judge who refused permission in the First-tier Tribunal neither noted nor dealt with the need for an extension of time of well over a year.

4. It follows that I have to deal with the extension of time for myself. Even if an application had been made promptly after the Court of Appeal decision, I should not have granted one: while the law as declared by the Court of Appeal is to be treated as if it had always been so, it has never been the practice to allow decisions, however long they have stood, to be re-opened, at least at the instance of state authorities, on the basis of a subsequent re-statement of the law.

Extension of time for appealing refused

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke at the end.

(a judge of the Upper
Tribunal)