



IAC-FH-CK-V1

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

Appeal Numbers: IA/22864/2014
IA/22858/2014

THE IMMIGRATION ACTS

**Heard at Birmingham Employment Decision & Reasons
Tribunal On 11 March 2016 Decision & Promulgated On 6 May 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE HANBURY

Between

**MRS RAZIA GUL AFRIDI
MR ATTA UR REHMAN AFRIDI
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr R Martin of Counsel

For the Respondent: Mr T Wilding, a Senior Presenting Officer

DECISION AND DIRECTIONS

Introduction

1. The appellant is a citizen of Pakistan who appealed to the Upper Tribunal with the permission of First-tier Tribunal Judge Robertson.
2. In granting permission Judge of the First-tier Tribunal Robertson identified that Immigration Judge Chana (the Immigration Judge) had wrongly stated that the appellant and her representative had not attended the hearing when in fact they had. Indeed, some of the facts set out in the

Immigration Judge's decision did not relate to the appellant's appeal. These were clear procedural and substantive errors which had resulted in prejudice to the appellant and which justified the grant of permission.

3. The respondent, in her Rule 24 response, did not seek to argue otherwise.

The Hearing

4. At the hearing, which was attended by both parties' representatives, it was accepted on behalf of the respondent that there had been an unfair disposal and that none of the findings of fact made by the Immigration Judge could stand. Both parties agreed that the appropriate means of disposal was for the matter to be remitted to the First-tier Tribunal (FtT) for a hearing to be conducted before an Immigration Judge other than the Immigration Judge.

Decision and Directions

5. Accordingly, upon the Upper Tribunal finding a material error of law in the decision of the FtT I remit the matter back to the FtT. I make the following directions for the future disposal of this case:
 - (1) the matter be remitted to the FtT for a new hearing of the appellant's appeal against the respondent's decision;
 - (2) the hearing has to take place before a judge other than Judge of the First-tier Tribunal Chana;
 - (3) the hearing is preferably to take place before the IAC Birmingham;
 - (4) all further directions are to be sent out by the FtT;
 - (5) the appellant's representatives are to indicate whether they require an interpreter within 7 days of the service of this order;
- (5) The FtT is to consider whether to make any fee award.

Anonymity

There is no anonymity direction in this case.

Signed

Date

Deputy Upper Tribunal Judge Hanbury

TO THE RESPONDENT **FEE AWARD**

There is no fee award at this stage.

Signed

Date

Deputy Upper Tribunal Judge Hanbury