



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/24507/2014**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 11th May 2016

**Decision & Reasons
Promulgated
On 27th July 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAINI

Between

MR MUHAMMAD RAEES

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Reynolds, Counsel; Buckingham Legal Associates
For the Respondent: Mr S Walker, Senior Presenting Officer

DETERMINATION AND REASONS

1. This matter comes before me as a consequence of a previous Error of Law Decision and Reasons by Deputy Upper Tribunal Judge Hutchinson finding that the decision of First-tier Tribunal Judge Coaster contained a material error of law and that her findings should be set aside in respect of the Appellant's Article 8 matters under and outwith the Rules. The decision of Judge Coaster in respect of the Tier 4 appeal was affirmed.
2. At the previous hearing on 9 March 2016, the Respondent's Senior Presenting Officer, Ms Fijiwala, conceded that the Appellant had met the requirements of Appendix FM-SE in terms of the documentary evidence

that had been submitted. Judge Hutchinson adjourned the hearing so that the Respondent could have an opportunity to check the documentation that was submitted by the Appellant. Any further evidence to arising from those checks was to be served by 18 April 2016.

3. At the outset of the hearing I indicated to Mr Walker that the Tribunal had not received any further evidence from the Respondent. Mr Walker confirmed that general enquiries had been made with HMRC concerning the Appellant's financial documentation but that no response had been received. Upon my enquiry, Mr Walker confirmed that he would not be seeking a further adjournment to accommodate the receipt of further evidence from the Respondent and was content to proceed.
4. Given the nature of the error of law decision, and that the Article 8 issue had arisen by virtue of amendments to the grounds of appeal, and that no decision had been taken on Appendix FM or Article 8 by the Respondent, I asked the parties to assist me as to what extent each element of Appendix FM was not met.
5. With the assistance of the parties, I began an analysis of each rule underlying R-LTRP and the requirements for limited leave to remain as a partner.
6. The parties were in agreement as to the following:
 - (i) The Appellant and partner were in the UK and had made a valid application for the Appellant to receive limited leave to remain as a partner,
 - (ii) The Appellant did not fall for refusal under any part of Section S-LTR and the suitability requirements,
 - (iii) The Appellant satisfied the relationship requirements at E-LTRP.1.2. to 1.12 (notably, the Appellant and partner's Marriage Certificate appears at page 5 of the Appellant's Bundle and is dated 28 April 2014),
 - (iv) The Appellant did not fall foul of E-LTRP.2.1 to 2.2 in respect of his immigration status ,
 - (v) The Appellant met the financial requirements at E-LTRP.3.1 and the accommodation requirements at E-LTRP.3.4,
 - (vi) The Appellant met E-LTRP.4.1(b) and had provided an English language certificate showing a minimum level of A1 (notably, the requisite English language certificate appears at page 1 of the Appellant's bundle and is dated 12 March 2014), and
 - (vii) The Appellant had provided the necessary documents specified under Appendix FM-SE.

7. In view of the above agreed position of the parties, section D-LTRP makes clear that if the requirements of R-LTRP.1.1.(a) to (c) are met, which they are, the applicant will be granted limited leave to remain.
8. Consequently, given that the parties are in complete agreement that every aspect of the Rules has been met that is necessary to result in a grant of leave pursuant to D-LTRP, and given that I am in agreement with the parties' interpretation of the Rules in question, there is nothing left for me to determine and the appeal on the basis of Appendix FM falls to succeed.

Decision

9. For the above reasons, I re-make the decision under Appendix FM by allowing the Appellant's appeal under the Immigration Rules in respect of his family life with his partner.

Fee Award

10. I do not see fit to make a fee award given that the Respondent was required to assess the Appellant's evidence, which was crucial to the just disposal of the appeal under Appendix FM.

Signed

Date **27th July 2016**

Deputy Upper Tribunal Judge Saini