



IAC-AH-SC-V1

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

Appeal Numbers: IA/39465/2014
IA/39464/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 21 December 2015**

**Decision & Reasons Promulgated
On 13 January 2016**

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

**PATRICIA ALEXANDER (FIRST APPELLANT)
AA (SECOND APPELLANT)
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms C Bexson, Counsel

For the Respondent: Mr E Tufan, HOPO

DECISION ON ERROR OF LAW

1. The appellants are both nationals of Grenada and are mother and daughter. They were born on 24 November 1968 and 13 September 2002 respectively. On 24 April 2013, they applied for leave to remain in the United Kingdom on the ground of long residence, based on ten years of residence in the UK. On 9 January 2014 the respondent refused their applications. The respondent withdrew her decision and reconsidered their applications. On 15 September 2014, fresh decisions refusing the

appellants' application were issued together with directions for their removal to Grenada.

2. The appeals of the appellants against the respondent's decision were dismissed by First-tier Tribunal Judge Stokes.
3. Both parties agreed that the judge's decision contained errors of law. The first error was that the judge made conflicting findings at paragraph 22. The judge initially found that AA met the requirements of paragraph 276ADE(vi) since she was aged 12 and had spent the last eleven years continuously living in the UK. But towards the end of that paragraph, the judge concluded that AA did not meet the requirements of paragraph 276ADE(iv).
4. The second error was in respect of the judge's finding at paragraph 21.
5. The judge held as follows:

"21. Ms Jackson conceded that neither appellant could meet the requirements of paragraph 276B as they had both overstayed by more than 28 days between 18 January and 25 February 2011. The appellant has remained in breach of immigration laws contrary to the requirements of paragraph E-LTRPT.3.2 of Appendix FM of the Rules. Since she does not meet that eligibility requirement, paragraph EX.1. (a) does not apply even though AA meets the 7 years' qualification requirement since the paragraph is not free-standing: **Sabir (Appendix FM - EX.1 not free standing) [2014] UKUT 00063 (IAC)**. With her mother's failure to obtain a grant of leave to remain under the parent route it follows that AA is not eligible for leave to remain under the child route."
6. Ms Bexson submitted with arguable merit that EX.1 does apply and that E-LTRPT.3.2 is not the eligibility requirement for paragraph EX.1. She submitted that E-LTRPT.3.2 is not applicable in this case.
7. I agreed with Ms Bexson. Paragraph E-LTRPT 3.2 sets out the financial requirements an appellant must satisfy. It is not applicable in this case and it is not the eligibility requirement for paragraph EX.1.
8. In the light of the above errors which I consider to be material errors, I find that the judge's decision cannot stand. The decision is set aside in order to be remade.
9. The appeal is to be remitted for rehearing at Taylor House by a judge other than First-tier Tribunal Judge Stokes.

Signed

Date

Upper Tribunal Judge Eshun