



**Upper Tribunal
(Immigration and Asylum
Chamber)** Appeal Number:

HU/02489/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 24 October 2017**

**Decision & Reasons Promulgated
On 06 November 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE G A BLACK

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR ADNAN BUTT
(ANONYMITY DIRECTION NOT MADE)**

Claimant

Representation:

For the Appellant: Mr E Tufan, Home Office Presenting Officer

For the Claimant: Mr W Rees, Counsel instructed by Lexsure Solicitors

DECISION AND REASONS

1. This is an appeal by the Secretary of State in respect of a decision made by the First-tier Tribunal (FtJ Majid) promulgated on 6 June 2017 in which he allowed the appellant's appeal on human rights grounds following his application for leave to remain in the UK.
2. The grounds of appeal relied by the Secretary of State were that the First-tier Tribunal made a material error of law in that it failed to give any cogent reasons as to why the appeal was allowed. The First-tier Tribunal Judge produced a decision which commented extensively on irrelevant matters and included political commentary without once referring to the comments back to the case at hand.

3. The Secretary of State submits that neither party to the appeal had a fair hearing and that the matter should be completely reheard.
4. Permission to appeal was granted by First-tier Tribunal Judge P J M Hollingworth in the following terms:-
 - “1. It is arguable that the Judge has set out an insufficient analysis of the findings leading to the conclusion that the appeal should be allowed. At paragraph 21 of the decision the Judge has stated that he was minded to allow the appeal because “the Appellant’s father is in his twilight years and deserves the benefit of the ECHR”.
 2. It is arguable that this constitutes an insufficient analysis taking into account the content of the remainder of the decision. It is arguable that the Judge has fallen into error by failing to provide a sufficient legal foundation in relation to the twin concepts of entering the twilight years and the deserving of benefit pursuant to the ECHR.”
5. The application was opposed by the Claimant. A Rule 24 response had been submitted but was not before the Tribunal. Mr Rees on behalf of the Claimant summarised the contents of the Rule 24 response. In essence he argued that notwithstanding some general concerns the decision was sustainable.

Error of Law Hearing

6. I heard submissions from both representatives which are set out in the Record of Proceedings.
7. I have also taken into account the recent Upper Tribunal decision of *MM v SSHD & Ors* heard on 27 July 2017, a decision which was relied on by the Secretary of State. I find material errors of law in the FtJ’s decision. All of the Grounds of Appeal relied on by the Secretary of State are made out. The decision contained multiple errors including those raised and referred to in *MM* which are of a generic nature, together with the particular errors specified in the Grounds of Appeal. The decision cannot be maintained and I reject the submissions made by Mr Rees. Apart for a statement that the FtJ was minded to allow the appeal because the Claimant’s father was in his twilight years and deserves the benefit of the ECHR, the decision contains no assessment of either the law or the facts.

Notice of Decision

8. There are material errors of law and the decision is set aside. The matter is remitted for re hearing at Taylor House (excluding Judge Majid).

No anonymity direction is made.

Signed

Date 3.11.2017

Deputy Upper Tribunal Judge G A Black