



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/11121/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 13 October 2017

**Decision & Reasons
Promulgated**

On 20 October 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

**MR MUHAMMAD IJAZ
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms P Yong, Counsel, instructed by Wimbledon Solicitors
(Merton Rd)

For the Respondent: Mr N Bramble, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Pakistan born on 3 March 1963. He claimed to have entered the United Kingdom on 8 April 1994 and thereafter overstayed. On 28 April 2015 he made an application for leave to remain on the basis of his private life. This application was refused on 3 November 2015 with reference to paragraph 276ADE and Appendix FM of the Immigration Rules.
2. The Appellant appealed. His appeal was heard by First-tier Tribunal Judge Amin on 9 January 2017 and in a Decision and Reasons promulgated on 3 February 2017 the judge dismissed the appeal.

3. An application for permission to appeal to the Upper Tribunal was made in time on the basis that the judge erred in law in failing to take account of the Appellant's submissions that he meets the Immigration Rules as a partner of Ms S K, a recognised refugee settled in the United Kingdom with five children, who look upon the Appellant as their father. The Appellant's wife is a recognised refugee and there was no consideration by the judge that she would be at risk if she were to be obliged to go to Pakistan.
4. The second ground of appeal asserted that the judge failed to give proper consideration to the evidence relating to the Appellant's relationship with his wife's 15 year old son and failed to properly consider his best interests.
5. Permission to appeal was granted on 16 August 2017 by First-tier Tribunal Judge Holmes on the basis that the judge's approach to the Article 8 appeal was flawed and that having concluded that the relationships between the Appellant, his wife and children were genuine, the judge needed to demonstrate that she had focused on their ability to live safely in Pakistan with the Appellant or to sponsor a successful entry clearance application.
6. In a Rule 24 response dated 12 September 2017, the Respondent did not oppose the application for permission to appeal and invited the Tribunal to determine the appeal by way of a fresh hearing. At the hearing before me, Mr Bramble confirmed that that was the position, given that it is expressly accepted by the Respondent that there are material errors of law in the judge's decision.
7. I accept the Respondent's concession that there are material errors of law in the decision of FtTJ Amin. The consequence of my decision is that in light of the fact that the judge made negative findings in respect of the Appellant's credibility at [21] to [23] and [30] and in light of the fact that the determination is vitiated by errors of law I remit the appeal for a hearing *de novo* by a First-tier Tribunal Judge other than Judge Amin.

Notice of Decision

The appeal is allowed to the extent that there are material errors of law in the decision of First tier Tribunal Judge Amin. The appeal is remitted back to the First tier Tribunal for a hearing *de novo*.

No anonymity direction is made.

Signed Rebecca Chapman

Date 19 October 2017

Deputy Upper Tribunal Judge Chapman