



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

Appeal Number: IA/28078/2015

THE IMMIGRATION ACTS

**Heard at Birmingham
On 12th September 2017**

**Decision & Reasons
Promulgated
On 20th September 2017**

Before

Upper Tribunal Judge Chalkley

Between

**MISS MEENA KURAMI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N A Bajwa, a Solicitor's Clerk from A Bajwa & Co Solicitors

For the Respondent: Mr Mills, a Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of India born on 23rd November 1963. She made application to the respondent for leave to remain in the United Kingdom and that application was refused by the respondent on 22nd July 2015. The appellant entered the United Kingdom on 4th March 2000, as a visitor and with entry clearance until 15th August 2002. Thereafter she stayed without leave. It was on 24th November 2011, she applied for leave to remain outside the Immigration Rules. This was refused on 22nd July, 2012.

2. The appellant appealed to the First-tier Tribunal and her appeal was heard by First-tier Tribunal Judge Talbot on 19th September 2016. At paragraph 5 of the determination the judge refers to the appellant's representative requesting an adjournment because the Presenting Officer had given an indication that credibility would be an issue, which had not earlier been apparent from the refusal letter. The judge refused that application. He went on to dismiss the appellant's appeal.
3. The appellant sought and obtained leave to appeal to the Upper Tribunal.
4. Before me, Mr Mills on behalf of the Secretary of State told me that he relied on **Otshudi [2004] EWCA Civ 893** and pointed out that it should have been obvious that the Presenting Officer was entitled to raise the issue of credibility at the hearing. Nonetheless, if the appellant's representatives were taken by surprise and had not properly prepared, then the judge had erred by failing to grant an adjournment to enable the appellant's representatives to consider the matter. He agreed that the determination could not stand. I believe that he was right to do so.

Notice of Decision

5. I believe that the appellant has been denied a fair hearing before the First-tier Tribunal and I therefore remit the matter for hearing afresh by a judge other than First-tier Tribunal Judge Talbot. I believe that two hours should be allowed for the hearing of the appeal and a Hindi interpreter should be booked.

Richard Chalkley
Upper Tribunal Judge Chalkley
September 2017

Date: 15th