



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

Appeal Number: HU/04588/2016

**THE IMMIGRATION ACTS**

**Heard at: Field House  
On: 24 April 2018**

**Decision & Reasons Promulgated  
On: 26 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**MUHAMMAD WAQAS AMIN BHATTI**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr R Sharma, instructed by AWS Solicitors

For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Pakistan born on 26 February 1983. He entered the UK on 11 August 2012 with leave to enter as a Tier 4 general student migrant. He was refused further leave to remain on that basis and, subsequently, on the basis of an application made outside the immigration rules.

2. On 3 November 2015 the appellant made a human rights claim on the basis of his relationship with his partner, a British national previously of Thai nationality. His application was refused on 3 February 2016 and he appealed against that decision.

3. The appellant's appeal was heard before First-tier Tribunal Judge Burns on 16 August 2017 and was dismissed.

4. Permission to appeal to the Upper Tribunal was sought by the appellant on three grounds. The first ground was that the judge had acted outside her jurisdiction by considering a protection claim that had not been made by the appellant. The second ground was that the judge had made findings on the sponsor's financial position without giving her an opportunity to explain her financial circumstances. The third ground was that the judge had failed, when considering the question of insurmountable obstacles, to take account of the difficulties faced by the sponsor in relocating to Pakistan by reason of her religion.

5. In granting permission on 2 March 2018, First-tier Tribunal Judge Gibb also referred to an arguable tension between the judge's finding at [44] that the sponsor's business would not meet the financial requirements of the immigration rules and that at [51] and [53] that the appellant could apply for entry clearance.

6. At the hearing Mr Tarlow conceded that the judge had erred in law, in particular with respect to the point made in the grant of permission. He asked that the matter be remitted to the First-tier Tribunal. Mr Sharma also asked that the matter be remitted as there was further evidence to be submitted and considered, and further findings to be made, on the matter of the inter-faith marriage.

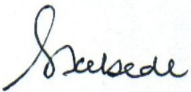
7. In light of Mr Tarlow's concession I set aside the First-tier Tribunal's decision and agreed to remit the matter for consideration afresh.

## **DECISION**

8. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal, to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Burns.

### **Anonymity**

The First-tier Tribunal made an anonymity order. I see no need for such an order and I therefore discharge the order, pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269).

Signed   
Upper Tribunal Judge Kebede

Dated: 24 April 2018