



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/14084/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at North Shields
On 3 May 2018**

**Decision sent to parties
On 11 May 2018**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

JYOTI SINGH
[NO ANONYMITY ORDER]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: No appearance or representation

For the respondent: Ms Rhona Petterson, a Senior Home Office Presenting Officer

DECISION AND REASONS

Decision and reasons

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision to refuse her leave to remain outside the Rules on 18 May 2016. The appellant is a citizen of India.

Permission to appeal

2. The grounds of appeal aver that the respondent had retained documents of which the appellant had no copies, and that she had thereby been unfairly

prejudiced. The appellant's second ground is that the First-tier Tribunal Judge 'did [not] seem to appreciate that under the Immigration Act 2014 the appeal could only be considered on the basis of human rights issues, and ...in determining the human rights issue you must consider the Immigration Rules and determine if they are satisfied, it will be a weighty factor in determining the human rights issues'. The appellant relies on a longstanding relationship of more than 2 years with a British citizen, which she says engages not just Article 3 ECHR but Article 8 ECHR.

3. Permission to appeal was granted by First-tier Tribunal Judge Baker on the basis that the First-tier Tribunal should not have decided the appeal as the respondent's bundle appeared to be incomplete and an adjournment had been sought to obtain the full bundle, which was said to include specific medical evidence, report, prescriptions and information from the University where the appellant had been studying. The Judge considered it arguable that the First-tier Tribunal erred in 'not considering, within the perspective of the Article 8 ECHR grounds of appeal, the appellant's position within the Immigration Rules as asserted in the grounds'.

Rule 24 Reply

4. There was no Rule 24 Reply.
5. That is the basis on which this appeal came before the Upper Tribunal.

Upper Tribunal hearing

6. The appellant did not appear, nor arrange representation for the Upper Tribunal hearing. I therefore examined the First-tier Tribunal's decision. The Judge states at [13] that '[there] is no appeal on the ground that the respondent's decision is not in accordance with the Immigration Rules'. It is unclear whether he means (correctly) that no such appeal can now be brought, or (erroneously) that the appellant did not bring an appeal on that ground, which as she rightly identifies in her grounds, is no longer available to her. In any event, he did not consider the appeal under the Rules.
7. Turning to the human rights appeal, the appellant has not produced any medical evidence to show that she has more than the symptoms identified in a letter from her general medical practitioner, which was before the Tribunal. Her poor health (low mood, stress symptoms, and lower abdominal pain) have prevented her completing the studies. The Judge considered whether it would breach the appellant's Article 8 ECHR rights to remove her on that basis and was unarguably right to conclude that it would not.
8. The appellant's claimed relationship has not previously been mentioned. It did not form the basis of her application or of the grounds of appeal to the First-tier Tribunal. The appellant has the option of making further submissions about her private life with her claimed partner, but that cannot constitute any error of law in the present decision.

DECISION

9. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Date: 4 May 2018

Signed [Judith AJC Gleeson](#)
Upper Tribunal Judge Gleeson