



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/19811/2016
HU/10585/2016

THE IMMIGRATION ACTS

Heard at Field House
On 24th August 2018

Decision & Reasons Promulgated
On 13th September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

MRS HUONG THI NGO
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Iqbal, Counsel instructed by NR Legal Solicitors
For the Respondent: Ms M Kiss, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Vietnam whose date of birth is recorded as 22nd May 1988, but she made a number of applications pursuant to Appendix FM as a partner. On 27th June 2017, Judge Chowdhury sitting at Hatton Cross, heard the conjoined appeals in HU/10585/2016 and HU/19811/2016.
2. The issue in the appeals was whether the Sponsor had the employment contended for with a salary meeting the requirement of the Rules: £18,600. For the reasons that follow

I need not go into a great amount of detail about what occurred, but in short Judge Chowdhury was not satisfied that the Appellant, through the Sponsor, had established that the Rule was met. Judge Chowdhury looked at the wider application of Article 8 but found that the individual interest did not outweigh the public interest and so the appeal was dismissed, but what Judge Chowdhury did not do however was make a finding as to what the income was.

3. Not content with that decision the Appellant by Notice dated 26th February 2018 made application for permission to appeal to the Upper Tribunal. Permission was at first refused but on a renewed application Upper Tribunal Judge Coker granted the permission, thus the matter comes before me.
4. I was grateful to Ms Kiss who accepted that there was a material error of law in this matter, the judge not having made a finding as to the earnings. In those circumstances the decision is set aside to be remade. Miss Kiss then informed me that she was satisfied on the basis of evidence that she had now seen that the earnings were in fact such that the Rules were met, and on that basis the appeal is conceded. In the circumstances I find as follows.

Notice of Decision

5. The decision of the First-tier Tribunal contained a material error of law and is set aside.
6. The decision is remade, such that the appeal is allowed, both under the Rules and on human rights grounds.
7. No anonymity direction is made.

Signed

Date: 11 September 2018



Deputy Upper Tribunal Judge Zucker