



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

Appeal Number: IA/00402/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 24 October 2018**

**Decision & Reasons
Promulgated
On 6 November 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHAERF

Between

**MUHAMMAD INAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Ayodele of Goodfellows Solicitors

For the Respondent: Ms N Willocks-Briscoe of the Specialist Appeals Team

ERROR OF LAW DECISION AND REASONS

The Appellant

1. The Appellant is a citizen of Pakistan born on 13 December 1989. On 8 January 2016 the Respondent refused to grant the Appellant's application for further leave to remain on the basis of his marriage to a British citizen registered in April 2015.

The First-tier Tribunal Proceedings

2. The appeal has had a difficult history in the First-tier Tribunal, following judicial review proceedings which resulted in the Respondent making a fresh decision giving the Appellant an in- country right of appeal. By a decision promulgated on 16 February 2017 Judge of the First-tier Tribunal Majid allowed the appeal. The Respondent obtained permission to appeal and by a decision promulgated on 6 December 2017 Deputy Upper Tribunal Judge Mandalia remitted the appeal for hearing afresh in the First-tier Tribunal. By a decision promulgated on 29 June 2018 Judge of the First-tier Tribunal Keane dismissed the appeal. On 21 September 2018 Judge of the First-tier Tribunal Grant-Hutchison granted the Appellant permission to appeal.

The Hearing in the Upper Tribunal

3. On 10 October 2018 the Respondent wrote to the Upper Tribunal stating that the Appellant's application was not opposed and inviting the Tribunal to determine the appeal with a fresh oral hearing.
4. I agree that Judge Keane's decision should be set aside. It did not take account of the provisions of paragraph Gen.3.1 of Appendix FM and their impact on Section EX.1(b).
5. It was evident that Mr Ayodele was not in a position to proceed at once to a substantive re-hearing of the appeal. In the circumstances I find it appropriate to remit the appeal for hearing afresh with no findings of fact preserved before me, sitting as a Deputy Upper Tribunal Judge at Taylor House.

Anonymity

6. There was no request for an anonymity direction and having the appeal, I find none is warranted.

NOTICE OF DECISION

The decision of the First-tier Tribunal contained a material error of law and is set aside.

No anonymity direction is made.

Signed/Official Crest
2018

Date 25. x.

Designated Judge Shaerf
A Deputy Judge of the Upper Tribunal