



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

Appeal Numbers: HU/07533/2018
HU/09110/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 1 March 2019**

**Decision & Reasons
Promulgated
On 14 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MUHAMMAD [A]
SANIA [A]
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr N Bramble, Senior Presenting Officer

For the Respondent: Ms T Fisher of Counsel, instructed by Legal Solutions
Advocates

DECISION AND REASONS

1. In this decision the Appellant will be referred to as the Secretary of State and the Respondents will be referred to as the Claimants.

2. The first and second Claimants, nationals of Pakistan, date of birth 13 November 1982 and 2 February 1985, appealed against the Secretary of State's decisions dated 14 March 2018 to refuse their applications made on 21 August 2007 for leave to remain and upon a human rights based claim. The appeals came before First-tier Tribunal Judge Herlihy (the Judge) who, on 31 October 2018, allowed their appeals on human rights grounds.
3. Permission to appeal the decision was given by Deputy Upper Tribunal Judge McGeachy on 29 January 2019.
4. In particular the Judge concluded that the first Claimant had not been dishonest and therefore suitability was not an issue because he had given an innocent explanation and a credible one to explain the discrepant HMRC tax return which had been made. The Judge concluded that the first Claimant was a credible witness and his claims were fully supported by the evidence referred to in his oral testimony (D21) and the Judge found that the first Claimant had provided a plausible innocent explanation to rebut the evidence of the Secretary of State and there was no evidence to conclude the first Claimant had engaged in any conduct that impugned his character.
5. It appeared the underlying basis or potential cause of error lay in the first Claimant's and second Claimant's personal circumstances which most unfortunately included the stillbirth of a child in January 2013 and a subsequent miscarriage in 2013, for which evidence had been produced. Mr Bramble fairly accepted that whilst the Judge's decision was perhaps not as well-written, or was potentially ambiguous, the fact was that in the light of the Judges' findings there really was nothing in the appeal for the Secretary of State left to substantively argue.
6. Ms Fisher provided an extensively argued Rule 24 statement which largely mirrored the representations that had previously been made. Having considered them and Mr Bramble's assessment of the matter I concluded that there is no material error of law.

NOTICE OF DECISION

The Original Tribunal's decision stands. The appeal by the Secretary of State is dismissed.

ANONYMITY

No anonymity direction was made nor was one required.

Signed

Date 10 March 2019

Deputy Upper Tribunal Judge Davey