



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

Appeal Number: HU/07667/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 26 July 2019**

**Decision & Reasons Promulgated
On 6 August 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

**MR H HASAN AKM MOFAZZAL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Md Chowdhury, Legal Representative

For the Respondent: Ms A Fijiwala, Senior Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge P S Aujla of the First-tier Tribunal in a decision dated 5 April 2019 who dismissed the appellant's appeal under Article 8 of the European Convention on Human Rights. Permission to appeal was granted by Upper Tribunal Judge Pickup in a decision dated 25 June 2019.
2. At the hearing, Ms Fijiwala accepted that there has been a material error of law in the decision of the First-tier Tribunal due to procedural unfairness. This is because the appellant provided medical evidence that his adjournment request should have been granted as he was indisposed

and could not attend the hearing. I agree that denial of the adjournment request by the appellant lead to a material error of law as he was denied a fair hearing.

3. I therefore direct that the appeal be remitted to the First-tier Tribunal for a fresh hearing before any Judge other than Judge Aujla. No findings of facts are to be preserved and there should be a de novo hearing.

Notice of Decision

The appeal is allowed to that limited extent

No anonymity direction is made.
No fee award is made

Signed

Date 30th day of July 2019

Deputy Upper Tribunal Judge Chana