



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/17023/2018**

Appeal Number:

**HU/17026/2018, HU/17032/2018
HU/17034/2018, HU/17038/2018**

THE IMMIGRATION ACTS

**Heard at Manchester
On 29 May 2019**

**Decision & Reasons
Promulgated
On 10 June 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DOYLE

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**M, G, A, U and H
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr A McVeety, Senior Home Office Presenting Officer
For the Respondent: Mr K Brown (counsel) instructed by Arshed & Co,
solicitors

DECISION AND REASONS

1. To preserve the anonymity direction deemed necessary by the First-tier Tribunal, I make an anonymity order under Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, precluding publication of any

information regarding the proceedings which would be likely to lead members of the public to identify the appellants.

2. The Secretary of State for the Home Department brings this appeal but in order to avoid confusion the parties are referred to as they were in the First-tier Tribunal. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge Meyler, promulgated on 27 February 2019, which allowed the Appellants' appeals on article 8 ECHR grounds.

Background

3. The second appellant is the first appellant's wife. The third, fourth and fifth appellants are their children. All five appellants are Pakistani nationals. On 31 July 2018 the Secretary of State refused the Appellants' applications for leave to remain in the UK.

The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Meyler ("the Judge") allowed the appeals against the Respondent's decision. Grounds of appeal were lodged and on 29 March 2019 Judge Beach granted permission to appeal stating *inter alia*

"2. The grounds assert that the First-tier Tribunal Judge has made a material error of law by considering the facts at the date of the decision rather than at the date of the hearing. The grounds further state that the First-tier Tribunal Judge erred in taking account of future potential circumstances by finding that in September 2019 the third appellant would have lived in the UK for at least half of his life and would be 18 years old.

3. The first and second appellants could not fulfil the requirements of the immigration rules because the parent route does not allow for the family unit to rely on the parent route under appendix FM. The appellants were relying on section 117B(6). The appeal was a human rights appeal and it is arguable that the date of the hearing was therefore the relevant date by which stage the third appellant was 18 years old and had not lived at least half of his life in the UK. The other appellants' appeals were allowed primarily on the basis that the First-tier Tribunal Judge found that it was not reasonable to expect the third appellant to leave the UK and that he was a qualifying child.

4. Permission to appeal is granted on all grounds."

The Hearing

5. Mr McVeety, for the respondent, declined to move the grounds of appeal. The respondent has always accepted that the third appellant is a qualifying child because he is under the age of 18 years and has lived in the UK for more than seven years at the date of application. The Judge makes a clear and unchallenged finding that it is not reasonable for the third appellant to leave the UK. There is therefore no public interest in the

third appellant's removal. Mr McVeety told me that it is now agreed that the decision does not contain a material error of law.

6. On joint motion I am asked to dismiss the appeals.

7. It is now a matter of agreement that the decision does not contain a material error of law. The respondent no longer insists in his appeal. As no material error of law is identified I dismiss the appeals.

8. The decision does not contain a material error of law. The Judge's decision stands.

DECISION

9. The appeals are dismissed. The decision of the First-tier

A handwritten signature in grey ink that reads "Paul Doyle". The signature is written in a cursive style with a large initial 'P' and a long horizontal stroke.

Tribunal, promulgated on 27 February 2019, stands.

Signed
2019

Date 3 June

Deputy Upper Tribunal Judge Doyle