



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: EA/01593/2020 (P)**

THE IMMIGRATION ACTS

**Decided under Rule 34
On 27 October 2020**

**Decision & Reasons Promulgated
On 02 November 2020**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**MD OBIDUR RAHAMAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The Appellant is a citizen of Bangladesh born on 20 October 1988. His appeal against the refusal of a residence card as an extended family member was dismissed by First-tier Tribunal Judge Shanahan on 6 March 2020.
2. On 19 February 2020, the Appellant's representative wrote to the Tribunal requesting an adjournment on the basis that the Appellant had an outstanding human rights appeal (**HU/18626/2019**) and both appeals should be heard together. First-tier Tribunal Judge Shanahan made no reference to this application and determined the EEA appeal without a hearing.
3. Permission to appeal was granted by First-tier Tribunal Judge Bird on 26 June 2020 on the ground it was arguable the judge's decision was procedurally unfair. In her Rule 24 response, the Respondent invited the

Tribunal to determine the appeal with a fresh oral hearing to consider whether the Appellant was an extended family member for the reasons given in the representations dated 26 August 2020 by Zane Malik. The Respondent agreed it would be prudent for the appeal to be remitted to the First-tier Tribunal and linked to the human rights appeal. The Respondent adopted a neutral stance in relation to any alleged procedural unfairness.

4. I find that there has been a procedural irregularity amounting to an error of law such that the decision dated 6 March 2020 should be set aside under Rule 43 of the Tribunal Procedure (Upper Tribunal) Rules 2008. None of the judge's findings are preserved. The appeal is remitted to the First-tier Tribunal for re-hearing.
5. **I direct that this appeal is linked to HU/18626/2019 and should be listed before the same judge to be heard on the same day.**

Notice of decision

Appeal allowed

J Frances

Signed
Upper Tribunal Judge Frances

Date: 27 October 2020

TO THE RESPONDENT
FEE AWARD

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award because the Appellant's appeal remains outstanding.

J Frances

Signed
Upper Tribunal Judge Frances

Date: 27 October 2020