



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

Appeal Number: EA/02397/2019

THE IMMIGRATION ACTS

**Field House
On 4 November 2020**

**Decision & Reasons Promulgated
On 10 November 2020**

Before

UPPER TRIBUNAL JUDGE PITT

Between

**KHURRAM SHAHZAD CHATHA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. This is an appeal against the decision issued on 24 October 2019 of First-tier Tribunal Garratt which dismissed the appellant's appeal against a decision of the respondent dated 12 May 2019 which revoked his EEA family permit.
2. Mr Chatha is a citizen of Pakistan, born on 7 April 1995.
3. The appellant was granted an EEA family permit valid from 1 February 2019 to 1 August 2019 recognising his status as the extended family member (EFM) of his brother, a Portuguese national exercising Treaty rights in the UK. The appellant entered the UK on 20 February 2019, relying on that permit. On 21 February 2019 he applied for a five year residence permit recognising him as an EFM. Whilst that application was pending, the appellant left the UK on 11 April 2019. When the appellant returned on 9 May 2019, he was detained pending further interview but

released on bail on 11 May 2019. In a decision dated 12 May 2019, his six month family permit was revoked and he was refused entry. This decision appears to have been served on him on 13 May 2019. The appellant appeared the revocation and also made a further application for a five year residence permit. That application was refused on 27 June 2019.

4. The appeal before the First-tier Tribunal was heard on 17 October 2019 in Manchester and the decision dismissing the appeal issued on 24 October 2019. Permission to appeal to the Upper Tribunal was granted by the First-tier Tribunal on 21 February 2020.
5. A hearing in the Upper Tribunal listed for 24 April 2020 was adjourned as a result of the Covid-19 pandemic. On 5 May 2020 the Upper Tribunal directed that the parties provide written submissions on whether the Tribunal could make a decision on the papers as to whether there was an error of law.
6. The appellant agreed that the error of law decision could be made on the papers. The respondent conceded in a submission dated 10 August 2020 that the First-tier Tribunal decision disclosed errors on a point of law. The submission stated in paragraph 4:

“The judge has plainly become confused as (sic) the decision actually appealed give (sic) that the appellant was refused on admission on attempted second us (sic) of a family permit; that the case in general is dogged by repeated misstatements of what documentation was in play and what legal status it bore; and it is not apparent that the correct Regulations framework was applied to the case. It is not our view that the determination is salvageable and would propose that the matter be listed for a further hearing, with representations to follow on the venue. To pre-empt that course if agreed, the Respondent would take no strong view on remittal or retention but would suggest that the case would benefit from careful case management either way.”

7. Having considered all of the materials including the written submissions of the parties, the Upper Tribunal finds that the decision of the First-tier Tribunal discloses the errors of law identified in the respondent’s submission dan grounds of appeal, in particular the approach to the documentary evidence, parts of which, potentially material to the decision on dependency, were not addressed in the decision. The error of law found is such that the First-tier Tribunal decision must be set aside to be remade.
8. Having had regard to paragraph 7 of Part 3 of the Senior President’s Practice Statement dated 25 September 2012, and in particular where all findings of fact on the core issues of dependency must be re-made, it is appropriate for the re-making to take place in the First-tier Tribunal.

Notice of Decision

9. The decision of the First-tier Tribunal discloses an error on a point of law and is set aside to be remade *de novo* in the First-tier Tribunal.

Signed: S Pitt
Upper Tribunal Judge Pitt

Date: 4 November 2020