



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: HU/02309/2020

**THE IMMIGRATION ACTS**

**Heard remotely at Field House  
By Microsoft Teams  
On 5 November 2021**

**Decision & Reasons  
Promulgated  
On 18 November 2021**

**Before**

**UPPER TRIBUNAL JUDGE OWENS**

**Between**

**PARMINDER SINGH  
(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Dhanji, Counsel instructed by LP Legal Services  
For the Respondent: Mr Walker, Senior Home Office Presenting Officer

**DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE  
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Chohan sent on 15 September 2020 in which he dismissed the appellant's appeal against a decision to refuse his human right's claim.
2. Neither party objected to the error of law hearing being conducted remotely via Microsoft Teams and there were no connectivity issues during the hearing.
3. Both parties agreed that the decision of the First-tier Tribunal involved the making of an error of law. The judge decided the

appeal in three short paragraphs noting that he had not received any grounds of appeal.

4. Mr Dhanji provided evidence that the appellant's representative had sent the grounds of appeal by email twice prior to the appeal being decided in response for a direct request for the grounds of appeal by the Tribunal dated 20 February 2020. From the documentation before me, I am satisfied that an email dated 27 February 2020 was sent to the correct Tribunal email address which was notified to the appellant by the respondent, with the correct reference number and that the email contained the grounds of appeal as an attachment. I am also satisfied that the grounds were re-sent on 12 March 2020 to a different email address which was published on the respondent's website.
5. In these circumstances, it is agreed that, although there was no fault on the part of the judge, there is a procedural irregularity. The decision is vitiated by error and cannot stand.
6. In respect of disposal, I am mindful of statement 7 of the Senior President's Practice Statements of 10 February 2010. I am satisfied that the appellant has not had a fair hearing of his appeal and that he has not had the opportunity for his Article 8 ECHR claim to be considered by the Tribunal. In these circumstances, the appropriate course of action is to remit the appeal to the First-tier Tribunal for a hearing de novo.
7. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provides that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

### **Notice of Decision**

8. The decision of the First-tier Tribunal involved the making of an error of law.
9. The decision of the First-tier Tribunal is set aside, and any findings of the First-tier Tribunal are set aside in their entirety.
10. The appeal is remitted to the First-tier Tribunal to be heard by a judge other than First-tier Tribunal Judge Chohan.

Signed

Date: 5 November 2021

R J Owens  
Upper Tribunal Judge Owens