



**Upper Tribunal
(Immigration
Chamber)**

and

Asylum

Appeal Number: HU/12925/2019

THE IMMIGRATION ACTS

**Heard at Field House (via Teams) Decision & Reasons Promulgated
On 1 July 2021 On 9 July 2021**

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**ADIL MEHBOOB
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr S Walker, Senior Presenting Officer

For the Respondent: Mr R Solomon, instructed by Lumbini Solicitors

DECISION AND REASONS

1. The Secretary of State for the Home Department appeals, with permission granted by First-tier Tribunal Judge Chohan, against FtT Judge Lucas's decision to allow Mr Mehboob's appeal on Article 8 ECHR grounds.
2. Mr Mehboob had sought leave to remain in the UK as spouse. The application was refused under the Five-Year Route because of an allegation of ETS fraud and because he did not have extant leave to remain. It was refused under the Ten-Year Route because the Secretary of State did not accept that there were insurmountable obstacles to family life continuing in Pakistan.

3. Judge Lucas allowed the appeal on Article 8 grounds, finding that it was difficult to see any public interest in the removal of Mr Mehboob. He noted, amongst other matters, that he had had appropriate leave throughout; that the relationship was genuine and subsisting; that there had been no recourse to public funds; that the ETS allegation had fallen away; and that the separation of Mr Mehboob from his wife would affect the mental health problems from which they both suffer.
4. What was said in the Secretary of State's grounds was that Judge Lucas had erred in law in failing to note that there was a clear public interest in Mr Mehboob's removal, in that he was unable to meet the Financial Requirements of the Immigration Rules. That error was said to have skewed the proportionality assessment undertaken in the FtT. Judge Chohan considered that point to be arguable.
5. In a concise and robust response to the grounds of appeal, Mr Solomon submitted that the grounds misunderstood the situation before the FtT. There had been agreement between the parties, based on the evidence which was before the judge, that Mr Mehboob was able to meet the Financial Requirements of Appendix FM *at the date of hearing*. It was on that basis, he submitted, that the judge had not considered the point in his assessment of proportionality under Article 8 ECHR.
6. Having considered the evidence and the skeleton argument before the FtT, Mr Walker did not pursue the grounds of appeal. He accepted that there had been no disagreement before the judge about the financial position at the date of hearing and he accepted that the point taken in the grounds had fallen away as a result. He did not seek to criticise the decision to allow the appeal on Article 8 ECHR grounds in any way.
7. In the circumstances, I was able to indicate to Mr Solomon that I did not need to hear from him and that the decision of the FtT to allow the appeal on Article 8 ECHR grounds would stand.

Notice of Decision

There was no legal error in the decision of the FtT, which shall stand.

No anonymity direction is made.

M.J.Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

1 July 2021