Upper Tribunal
(Immigration and Asylum Chamber)   **Appeal Number: PA/05059/2019**

THE IMMIGRATION ACTS

Remote Hearing at Field House **Decision & Reasons Promulgated**
On 1st November 2021 **On the 01st November 2021**

Before

UPPER TRIBUNAL JUDGE CANAVAN
UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

RA
(ANONYMITY DIRECTION MADE)

<u>Appellant</u>

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

<u>Respondent</u>

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant or members of his family. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

Representation:
For the appellant: Mr R Toal, Counsel, instructed by SWLLC, Croydon
For the respondent: Ms S Cunha, Senior Home Office Presenting Officer

DECISION PURSUANT TO RULE 40 OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. By a decision promulgated on 30 September 2021, the panel concluded that the First-tier Tribunal had erred in law in respect of the appellant's protection claim and Article 4 ECHR, but had not erred in law in relation to the Article 8 ECHR issue. The matter was retained in the Upper Tribunal and was to be a resumed hearing in due course. Prior to that, a case management review hearing was arranged. This took place remotely before Upper Tribunal Judge Norton-Taylor on 1 November 2021.

2. In the lead up to that hearing, the respondent had indicated that she wished to withdraw the underlying decision in the appellant's case with a view to granting him <u>refugee status</u>. At the hearing Ms Cunha confirmed that this remained the respondent's position.

3. Following a discussion at the hearing and in light of <u>SM (withdrawal of appealed decision: effect) Pakistan</u> [2014] UKUT 64 (IAC), it was acknowledged that the Upper Tribunal could not withhold consent to the withdrawal of the underlying decision. In addition, both parties consented to a course of action under rule 40 of the Tribunal Procedure (Upper Tribunal) Rules 2008, namely that the appellant's appeal would be allowed and that reasons need not be provided for that decision: rule 40(3).

4. Therefore, and by consent of the parties, we re-make the decision in this appeal and allow the appellant's appeal against the respondent's refusal of his protection claim, specifically on the basis that the appellant's removal from the United Kingdom would breach this country's obligations under the Refugee Convention.

5. Also by consent of the parties, we do not provide written reasons for our re-making decision.

Anonymity

6. We maintain the anonymity direction which has been in place throughout these proceedings.

Notice of Decision

7. **The making of the decision of the First-tier Tribunal <u>did</u> involve the making of an error on a point of law in respect of the appellant's protection claim and the human rights claim in so far as it related to Article 4 ECHR.**

8. **The making of the decision of the First-tier Tribunal <u>did not</u> involve the making of an error on a point of law in respect of the Article 8 ECHR claim.**

9. **The decision of the First-tier Tribunal has been set aside, in line with paragraphs 7 and 8, above.**

10. The decision of the First-tier Tribunal allowing the appellant's appeal on Article 8 grounds stands.

11. In respect of the protection claim, we re-make the decision by <u>allowing</u> the appeal on the ground that the appellant's removal from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.

Signed: H Norton-Taylor   Date: 1 November 2021

Upper Tribunal Judge Norton-Taylor

<u>TO THE RESPONDENT</u>
<u>FEE AWARD</u>

No fee is paid or payable and therefore there can be no fee award.

Signed: H Norton-Taylor   Date: 1 November 2021

Upper Tribunal Judge Norton-Taylor