



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/06761/2020**

THE IMMIGRATION ACTS

**Heard at Field House
On 8th February 2022**

**Decision & Reasons Promulgated
On 09th March 2022**

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

HP

(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Mr T Melvin, Senior Home Office Presenting Officer

For the Respondent: No representative

Interpretation:

Mr MK Sayed in Gujarati

DECISION AND REASONS

Introduction

1. The claimant is a citizen of India born in 1984. She arrived in the UK in April 2013 with entry clearance as a spouse. On 20th December 2019 the claimant made an application under the domestic violence concession, this was initially rejected on 2nd January 2020 but after judicial review proceedings a new decision was made on 6th August

2020. Her appeal against this decision was allowed on human rights grounds by First-tier Tribunal Judge Mace in a determination promulgated on the 30th July 2021.

2. Permission to appeal was granted to the Secretary of State by Judge of the First-tier Tribunal Sills on 12th October 2021 on the basis that it was arguable that the First-tier judge had erred in law in failing to give adequate reasons for allowing the appeal. It is speculated that the decision may be incomplete as the immigration section and the grounds of appeal are arguably not completed; the grammar is poor throughout; there is no analysis of the evidence or the relevant legal provisions including the relevant Immigration Rules; and there is no consideration of proportionality under Article 8 ECHR.
3. The matter came before me to determine whether the First-tier Tribunal had erred in law, and if so whether the decision should be set aside and the appeal remade.

Submissions – Error of Law

4. In the grounds of appeal from the Secretary of State it is argued that there was a failure to provide reasons or adequate reasons on material matters. It is argued that there are no evidence-based reasoned findings at paragraphs 7 -15 of the decision, and instead all that the decision consists of is a record of the evidence and a decision that the “rules” are satisfied. As a result it is unclear why it is found that the claimant meets the requirements of the Immigration Rules. It is argued therefore that the First-tier Tribunal has failed to identify the key conflicts in the evidence and explain why the winning party has won, as per Budhathoki (reasons for decisions) [2014] UKUT 00341.
5. The claimant submitted that her appeal had rightly been allowed, as she believed she was entitled to remain, but could not read what was said in the decision as she could not read in English. I explained to her the issues with the decision, and she indicated she understood the position of the Upper Tribunal that the First-tier Tribunal had not made a sufficiently well-reasoned decision for it to be allowed to stand and that the appeal would have to return to the First-tier Tribunal to be remade.

Conclusions – Error of Law

6. As observed by Judge Sills when granting permission to appeal the decision of the First-tier Tribunal appears incomplete. At paragraph 2 under the heading Immigration history it simply states “The appellant”. Paragraph 4, under the heading “grounds of appeal” is blank. Under the section “Findings and Reasons” at paragraphs 7 -14 there is simply an account of the appellant’s evidence. The only paragraph which might amount to findings and reasons is 15, and this starts ungrammatically “have found”, and then proceeds to say that “the rules”, without identifying which rules those might be, are met and so the interference is not in accordance with the law or necessary. The decision is therefore manifestly inadequate in its reasoning.

7. I set aside the decision of the First-tier Tribunal and any findings, and given the extent of the judicial fact finding that will be required, as no findings were proper made and all must therefore be remade, remit the appeal to be remade de novo in the First-tier Tribunal before a Judge of the First-tier Tribunal other than Judge Mace. I make this decision having considered the guidance in the Joint Practice Statement of the Immigration and Asylum Chamber Upper Tribunal and First-tier Tribunal at paragraph 7.2(b).

Decision:

1. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
2. I set aside the decision of the First-tier Tribunal and all of the findings.
3. I remit the appeal to be remade de novo in the First-tier Tribunal.

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) 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 original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to avoid a likelihood of serious harm arising to the appellant given her history of domestic violence.

Signed: Fiona Lindsley
Upper Tribunal Judge Lindsley

Date: 8th February 2022