



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

**Ce-File Number: UI-2021-
000719**
**First-tier Tribunal No:
HU/02558/2020**

THE IMMIGRATION ACTS

**Heard at Field House IAC
On the 26 January 2023**

**Decision & Reasons Promulgated
On the 16 March 2023**

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

ABUL HASNAT
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Ms. A Nolan, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant appeals against the decision of the First-tier Tribunal dismissing his human rights appeal by a decision dated 7 July 2021.

2. He seeks indefinite leave to remain on the basis of ten years' lawful residence under paragraph 276B of the Immigration Rules.
3. Upper Tribunal Judge Kamara reasoned when granting the appellant permission to appeal by a decision dated 8 March 2022:

'The grounds raise serious issues of procedural fairness and impropriety. The Judge arguably erred in making a number of allegations in the decision and reasons, which had never been made previously, without raising those concerns during the proceedings as well as relying on those adverse findings in their fact-finding.'

Discussion

4. Ms. Nolan accepted at the outset of the hearing that the Judge had acted with procedural unfairness by making adverse credibility findings in respect of issues that were neither relied upon by the respondent, nor put to the appellant at the hearing. She accepted the evidence of the appellant's counsel before the First-tier Tribunal, Mr. David Jones, as to events before the Judge.
5. In the circumstances, the only proper course is for the decision of the Judge to be set aside in its entirety, and for the matter to be remitted back to the First-tier Tribunal.
6. The appellant requested that the matter be remitted to Taylor House, the hearing centre closest to him, rather than Hatton Cross where his appeal was initially heard. I consented to the request at the hearing.

Decision

7. The decision of the First-tier Tribunal dated 7 July 2021 is set aside by reason of material error of law. No findings of fact are preserved.
8. The resumed hearing will take place in the First-tier Tribunal, at Taylor House.

Signed: *D O'Callaghan*

Upper Tribunal Judge O'Callaghan

Date: 26 January 2023