



**Upper Tribunal  
(Immigration and Asylum Chamber)  
UI-2022-003041**

**Appeal Number:**

**HU/50774/2021  
IA/05072/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On the 08 September 2023**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**CNP  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr N Paramjorthy, Counsel

For the Respondent: Ms S McKenzie, Home Office Presenting Officer

**Heard at Field House on 1 September 2023**

**DECISION AND REASONS**

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Komorowski on 28 June 2022, against the decision of First-tier Tribunal Judge P Doyle who had dismissed the appeal of the Appellant against the refusal of her Article 8 ECHR family and private life claim. The decision and reasons was promulgated on or about 11 May 2022.

2. The Appellant is a national of India, born on 18 March 1959, a widow. The Appellant had last entered the United Kingdom on 8 March 2020, just before the first Covid-19 pandemic lockdown. Her leave to enter was extended until 31 October 2020. The Appellant then applied for leave to remain on Article 8 ECHR grounds, which was refused on 4 March 2021.
3. Judge Doyle found that the Appellant could reintegrate without facing insurmountable obstacles. Her case had been put on the basis of her private life. The Appellant had produced a report from a consultant psychiatrist which diagnosed depression but mental health care had not been shown to be unavailable in India. The judge found that family life was not demonstrated. The appeal was dismissed.
4. First-tier Tribunal Judge Komorowski considered that it was arguable that Judge Doyle had materially erred by failing to take account of, or had given inadequate reasons in the light of, the psychiatrist's opinion that the Appellant was a "high suicide risk". The judge had arguably failed to address the question. Permission to appeal was granted on all grounds raised.
5. Ms McKenzie for the Respondent indicated at the start of the hearing that the Appellant's application was not opposed. The psychiatric evidence had been insufficiently considered.
6. Mr Paramjorthy for the Appellant indicated that he was content with the concession. He submitted that the appeal should be reheard before another judge, with no findings preserved. In view of the delay between the original decision and the error of law hearing, the Appellant was likely to submit up to date psychiatric evidence.
7. The tribunal agreed that the judge's treatment of the psychiatric evidence was insufficient and that the insufficiency amounted to a material error of law. In all fairness to the judge, the suicide risk element of her claim had not been emphasised if mentioned at all in the skeleton argument submitted in the appeal, nor does it appear from the determination that it was the subject of

sustained argument before the judge. Nevertheless, the psychiatric report suggested that the Appellant had been suffering from some long term, underlying mental health problems, and raised a suicide risk issue. The Appellant had entered the United Kingdom lawfully and it was plain that her stay was extended because of circumstances beyond her control. She was three years older and her situation had changed. It may be that some of inadequacies in the evidence identified by the judge can be addressed by better preparation. An up to date psychiatric report will certainly be needed for the rehearing.

8. Further dialogue with the representatives followed. It was agreed that the decision should be set aside and remade, at a full hearing, with no findings preserved.

### **DECISION**

The onwards appeal is allowed. The making of the previous decision involved the making of a material error on a point of law. The decision is set aside.

No findings of fact are preserved. The appeal is remitted to the Taylor House Hearing Centre to be reheard by any judge except Judge P Doyle.

**Signed R J Manuell**                      **Dated** 4 September 2023  
**Deputy Upper Tribunal Judge Manuell**