



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004261
First-tier Tribunal No: EA/11552/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

15th February 2024

Before:

UPPER TRIBUNAL JUDGE GILL

Between

Entry Clearance Officer

Appellant

And

Jaimal Singh
(ANONYMITY ORDER NOT MADE)

Respondent

Representation:

For the Appellant: Ms A Nolan, Senior Home Office Presenting Officer
For the Respondent: (No appearance)

Heard at Field House on 29 January 2024

DECISION

1. This is an appeal by the Entry Clearance Officer of State of a decision of Judge of the First-tier Tribunal Lingam who, in a decision promulgated on 27 July 2022 following a hearing on 27 May 2022 allowed the appeal of Mr Jaimal Singh, a national of India born on 22 October 1991 (hereafter the “claimant”) against the Entry Clearance Officer’s decision of 24 May 2021 which refused the claimant’s application of 22 March 2021 under Appendix EU (Family permit) of the IRs.
2. This case was stayed pending the judgment of the Court of Appeal in Celik v SSHD [2023] EWCA Civ 9321. Subsequent to the Court of Appeal’s judgment being delivered on 31 July 2023, directions were served on the parties on 4 December 2023 which, inter alia, required the claimant to consider his position in light of the COA’s judgment.
3. The claimant was informed that, if no response was received from him to the directions and no consent order was filed, the appeal would be listed for disposal.
4. There has been no response from the claimant to date.

5. This case was therefore listed for disposal today.
6. I am satisfied that the Notice dated 8 January 2024 of today's hearing was posted to the claimant at his last-notified address and therefore I am satisfied that the Notice of Hearing has been duly served.
7. No one attended on the claimant's behalf at 10.00 a.m. nor by 1.00 p.m. Having considered the overriding objective and given that there has been no response from the claimant to date to directions issued to him in relation to the Court of Appeal's judgment in Celik v SSHD, I decided to exercise my discretion and proceed with the hearing in the absence of the claimant or any representation in his behalf.
8. In view of all of the foregoing, I dispose of this appeal by allowing the Entry Clearance Officer's appeal outright. The decision of Judge Lingam to allow the claimant's appeal is therefore set aside. I re-make the decision on the claimant's appeal by dismissing his appeal against the Entry Clearance Officer's decision dismissed.

Decision

The making of the decision of the First-tier Tribunal involved the making of any error of law sufficient to require it to be set aside.

I re-make the decision on the claimant's appeal by dismissing his appeal against the Entry Clearance Officer's decision.

Signed
Upper Tribunal Judge Gill

Date: 13 February 2024

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email