



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2024-002117

First-tier Tribunal No:
HU/56530/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 16th of October 2024

Before

**UPPER TRIBUNAL JUDGE RINTOUL
UPPER TRIBUNAL JUDGE RUDDICK**

**Between
QAMAR SHEHBAZ
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Karim, instructed by Legit solicitors.

For the Respondent: Ms H Gilmore, Senior Home Office Presenting Officer

Heard at Field House on 4 October 2024

**DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Loughdrige promulgated on 21 March 2024 dismissing his appeal against a decision of the Secretary of State made on 15 May 2023 refusing him leave to remain and his human rights claim.
2. Both parties agreed that the decision of the First-tier Tribunal involved the making of an error of law. That is because the judge, when assessing

the proportionality of removing the appellant, failed to have regard to the respondent's policy to grant leave to remain for six months to people who were found not to have cheated in obtaining their English language test results. As the judge had found that the appellant had not cheated, this was a factor to be taken into account in assessing the public interest in removal. The judge also erred in speculating unduly, and contrary to the relevant case law, as to what would have happened had the appellant's leave to remain not been curtailed.

3. Ms Gilmore accepted also that the appeal should be remade by allowing it, given that the respondent's policy was to grant people in the appellant's position leave to remain. We consider that she was correct to make that concession and the concession that the judge had erred in law. Had there not been concessions we would have come to the same conclusions.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing, which we did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. The parties gave such consent at the hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. We remake the appeal by allowing it on human rights grounds.

Signed

Date: 4 October 2024

Jeremy K H Rintoul

Judge of the Upper Tribunal