



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/07736/2010

THE IMMIGRATION ACTS

Heard at Field House
On 11 November 2013

Determination Sent
On 21 November 2013

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

MR MASHOOD IQBAL

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance by or on behalf of the appellant
For the Respondent: Mrs K Pal, HOPO

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan, born on 4 July 1979. His appeal against the respondent's refusal to grant him asylum was dismissed by First-tier Tribunal Judge

Adio in a determination dated 2 August 2010. On 6 September 2010 the appellant was refused permission to appeal the judge's decision.

2. The First-tier Tribunal Judge allowed the appellant's appeal under Article 8 of the ECHR. The respondent was granted permission to appeal the judge's conclusions in respect of the appellant's article 8 claim.
3. At the hearing today there was no appearance by the appellant or on his behalf and there was no explanation for his non-appearance.
4. I was informed by Mrs Pal that on 18 May 2011 the Secretary of State granted the appellant leave to remain for three years to expire in May 2014. She asked that the appeal be treated as abandoned under section 104 of the Nationality, Immigration and Asylum Act 2002.
5. I find that section 104 cannot be used by the Secretary of State to abandon an appeal brought by her. Having granted the appellant leave to remain, the Secretary of State could have withdrawn their appeal. The Secretary of State did not. In the circumstances, the only decision I can make is to dismiss the Secretary of State's appeal.
6. The Secretary of State's appeal is dismissed.

Signed
Upper Tribunal Judge Eshun

Date