



**The Upper Tribunal
(Immigration and Asylum Chamber)
AA/10346/2013**

Appeal number:

THE IMMIGRATION ACTS

**Heard at Manchester
On December 11, 2014**

**Determination
Promulgated
On December 15, 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR MUHAMMAD KALEEM HAIDER
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Zahoor (Legal Representative)

For the Respondent: Mr McVeety (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant, born April 26, 1952 is a citizen of Pakistan. The appellant claimed to have entered the United Kingdom on June 5, 2001 for the purpose of a visit. He overstayed and applied on October 18, 2011 for leave to remain outside of the Rules and this was refused on January 12, 2012. On September 26, 2012 he applied for leave to remain on long residency grounds and this

was refused on June 28, 2013. On August 6, 2013 he was detained for removal and whilst in detention he claimed asylum on September 30, 2013. He was released on October 8, 2013 and his application was refused on November 7, 2013 and at the same time a decision was taken to remove him as an illegal entrant by way of directions under paragraphs 8 to 10 of schedule 2 to the Immigration Act 1971.

2. The appellant appealed to the First-tier Tribunal under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on November 20, 2013. On February 18, 2014 Judge of the First Tier Tribunal Ransley (hereinafter referred to as the "FtTJ") heard his appeal. She refused his appeal on all grounds in a determination promulgated on February 22, 2014.
3. The appellant lodged grounds of appeal on March 6, 2014 and on March 18, 2014 Judge of the First-tier Tribunal McDade refused permission to appeal. The grounds were renewed to the Upper Tribunal and on April 28, 2014 Upper Tribunal Judge C Lane granted permission to appeal finding it arguable the FtTJ may have erred but warned that any error may not be material.
4. On the above date the appellant and his wife were in attendance and an interpreter translated proceedings for the appellant's wife.

ERROR OF LAW SUBMISSIONS

5. Mrs Zahoor submitted the FtTJ made a material error of fact in paragraph [26] of her determination. She wrongly recorded the appellant's wife's evidence and this materially affected her approach to the article 8 assessment. She confirmed that the error of law related only to the FtTJ's approach to article 8 ECHR and there was no challenge to the other decisions.
6. Mr McVeety submitted the FtTJ erred in paragraph [26] but this was not material. It was accepted the finding in paragraph [26] related to an answer given about the asylum claim. There was no appeal about the asylum aspect of the claim and the FtTJ had carefully considered the article 8 claim and made no reference to that finding in her proportionality assessment. The error would not have materially affected the decision.
7. Mrs Zahoor responded to that submission and reiterated that the finding infected the FtTJ's approach to Mrs Haider and the decision should be set aside. She accepted the appellant's wife would have no knowledge about the veracity of the asylum claim but she argued the error on the date issue affected the FtTJ's decision making.

DISCUSSION

8. I raised with Mrs Zahoor the relevance of this error in light of her submissions. I went through paragraphs [45] to [58] of the FtTJ's determination and invited Mrs Zahoor to identify where the FtTJ had taken the finding in paragraph [26] into account. Mrs Zahoor was unable to point out in the FtTJ's assessment of article 8 where the FtTJ relied on the earlier finding in paragraph [26] and accepted there was nothing in the FtTJ's assessment of article 8 that demonstrated any reliance on the finding in paragraph [26]. I am satisfied the FtTJ carefully considered the evidence that was before her and made findings open to her on the evidence. Whilst the finding in paragraph [26] was erroneous I am not persuaded that there is any error.
9. Mrs Zahoor invited me to remit the case back to the First-tier Tribunal because more evidence had been submitted about the appellant's wife's condition. I indicated to her that I was unable to do this as the evidence she now relied on was not before the FtTJ and I had found no material error in law in her approach.
10. Upper Tribunal Judge Lane gave permission to appeal but I am satisfied that having gone through the determination with Mrs Zahoor that the error identified did not alter the outcome of this appeal. The asylum and associated claims were dismissed because the FtTJ did not find the account credible and those findings are not challenged by Mrs Zahoor.
11. The FtTJ considered the evidence including the medical evidence and also had regard to the previous decision of Judge of the First-tier Tribunal Levin when considering his article 8 claim. She made findings open to her and I am satisfied there is no material error of law.

DECISION

12. There was no material error of law. I dismiss the appeal and uphold the original decision.
13. Under Rule 14(1) The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) the appellant can be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise. No order has been made and no request for an order was submitted to me.

Signed: Dated: **December 15, 2014**

Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT

No fee was payable and the appeal was dismissed in any event.

Signed:

Dated: **December 15, 2014**

Deputy Upper Tribunal Judge Alis