



**Upper Tribunal  
(Immigration and Asylum Chamber)**

**Appeal Number:**

**IA/15666/2014**

**THE IMMIGRATION ACTS**

<b>Heard</b>	<b>at</b>	<b>Field</b>	<b>House</b>
			<b>Determination promulgated</b>
<b>On 25 September 2014</b>		<b>On 26 September 2014</b>	

**Before**

**Deputy Judge of the Upper Tribunal I. A. Lewis**

**Between**

**Secretary of State for the Home Department**

**Appellant**

**and**

**Rawal Singh**

(Anonymity direction not made)

**Respondent**

**Representation**

For the Appellant: Mr. S. Kandola, Home Office Presenting Officer.  
For the Respondent: No appearance.

**DETERMINATION AND REASONS**

**and**

**NOTICE THAT APPEAL IS BEING TREATED AS ABANDONED  
(Asylum and Immigration Tribunal (Procedure) Rules 2005  
r.18**

1. This is an appeal against the decision of First-tier Tribunal Judge Burnett promulgated on 25 June 2014, allowing Mr Singh's

appeal against the Secretary of State's decision dated 20 March 2014 to refuse to vary leave to remain as a Tier 5 Temporary Worker (Creative and Sporting) Migrant and to make a removal decision pursuant to section 47 of the Immigration, Asylum and Nationality Act 2006.

2. Although before me the Secretary of State is the appellant and Mr Singh is the respondent, for the sake of consistency with the proceedings before the First-tier Tribunal I shall hereafter refer to Mr Singh as the Appellant and the Secretary of State as the Respondent.

3. In the particular circumstances of this case I do not propose to set out the Appellant's personal or immigration histories, or the history of these proceedings. All relevant matters are summarised in the determination of the First-tier Tribunal, and/or are otherwise a matter of record.

4. One issue is raised, and one only, by way of challenge to the favourable decision of Judge Burnett. The Respondent identifies that the Appellant had sent a communication to the Respondent on 23 April 2014, indicating that he wished to withdraw his appeal and return to India. The Appellant did indeed then depart the UK voluntarily 27 April 2014. For reasons that are unclear, these matters were not communicated to Judge Burnett (who dealt with the appeal 'on the papers' as had been requested in the Appellant's Notice of Appeal).

5. Be that as it may, the effect of the Appellant's departure from the UK brought his appeal to a conclusion, and necessarily therefore the Tribunal's jurisdiction to determine it. This is by virtue of section 104(4) of the Nationality, Immigration and Asylum Act 2002, which provides "*an appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as an abandoned if the appellant leaves the United Kingdom*".

6. It follows that, unbeknownst to him, Judge Burnett lacked jurisdiction to consider and determine the Appellant's appeal: to do so was in error. It is necessary therefore that I set aside the decision of the First-tier Tribunal.

7. It is not appropriate to remake the decision in the appeal: there is no extant appeal. Accordingly this document also serves as a Notice pursuant to rule 18 of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

### **Decision**

8. The decision of the First-tier Tribunal Judge contained a material error of law and is set aside.

9. The appeal is treated as abandoned. No further action is taken by the Tribunal in relation to the appeal.

**Deputy Judge of the Upper Tribunal I. A. Lewis 25  
September 2014**