



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/27250/2013**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 20 June 2014**

**Promulgation Date  
On 23 June 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**MR AAMER IQBAL SHEIKH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: Mr Malik, Counsel, instructed by Westminster Law

Chambers

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

**DETERMINATION AND REASONS**

1. The appellant, born January 1, 1960, is a citizen of Pakistan. The appellant entered the United Kingdom in 1993 and claimed he was apprehended and fingerprinted by Immigration Officers. On February 1, 2011 he applied for indefinite leave to remain on the grounds of 14 years unlawful residence. His application was initially refused on March 10, 2011 but was reconsidered

on December 17, 2012 and refused. The appellant only received that decision on July 23, 2013.

2. On August 3, 2013 the appellant appealed under section 82(1) of the Nationality, Immigration and Asylum Act 2002.
3. The matter came before Judge of the First-tier Tribunal Kaler (hereinafter referred to as "the FtTJ") on March 17, 2014 and in a determination promulgated on March 20, 2014 she found the appellant had been here for at least fourteen years but dismissed his appeal under paragraph 276(i)(c) of the Immigration Rules finding he had failed to provide evidence that he had passed the relevant English test. She recorded at paragraph [27] of her determination that no evidence the appellant had passed the test had been submitted and there had been no submissions made to her either in the written evidence or orally by the appellant's representative, Mr Malik.
4. The appellant appealed that decision on March 27, 2014. Permission to appeal was granted on May 1, 2014 by Judge of the First-tier Tribunal Levin on the basis the FtTJ had overlooked the fact the certificate was actually in the appellant's bundle.
5. There was no Rule 24 response from the respondent.
6. The matter was listed before me on the above date and the appellant was in attendance.

### **PRELIMINARY ISSUE**

7. I checked the appellant's bundle and noted that the certificate and accompanying letter were contained between pages 14 and 16. I also checked the FtTJ's notes of hearing and noted she had recorded that Mr Malik had addressed her on the certificate and specifically referred her to the pages in the aforementioned bundle.
8. I invited observations from Mr Saunders and he accepted the FtTJ had materially erred and he invited me to remake the decision on the evidence before me.
9. I did not require any submissions from Mr Malik because no challenge was being made to the certificate in the bundle and as this was the only outstanding issue I indicated I intended to allow the appeal.
10. The FtTJ had accepted all other requirements of the Rules were met with the exception of the correct certificates. The evidence was in the bundle and I was satisfied the Rules were met.

### **DECISION**

11. There was a material error of law. I have remade the decision and I allow the appeal under the Immigration Rules.
12. 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:



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT

I make no fee award as no application was made to me.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis