



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/40404/2013

THE IMMIGRATION ACTS

Heard at Field House
On 16th April 2014

Determination Promulgated
On 28th April 2014
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Before

UPPER TRIBUNAL JUDGE RENTON

Between

FARHAN TAHIR
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J Heybroek, Counsel instructed by Chauhan Solicitors
For the Respondent: Mr T Wilding

DETERMINATION AND REASONS

Introduction

1. The Appellant is a citizen of Pakistan born on 29th October 1984. The Appellant had been granted leave to remain as a Tier 4 (Student) Migrant but that leave had been curtailed so as to expire on 19th November 2012 under the provisions of paragraph 323A(b)(i) of HC 395. The Appellant subsequently applied for leave to remain on the

basis of his family and private life but that application was refused for the reasons given in a Notice of Decision dated 2nd August 2013. On 9th August 2013, the Respondent decided to remove the Appellant under the provisions of Section 10 of the Immigration and Asylum Act 1999. The Appellant appealed, and his appeal was heard by Judge of the First-tier Tribunal Perry (the Judge) sitting at Hatton Cross on 31st January 2014. Having heard evidence and submissions concerning the substantive issues in the appeal, the Judge decided to dismiss the appeal by way of finding that he was without jurisdiction as the Appellant did not have a right of appeal. The Appellant sought leave to appeal that decision and on 14th March 2014 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. At the hearing it was agreed by the representatives that the Judge had so erred in law and that his decision should be set aside. The Appellant had appealed a decision to remove him under the provisions of Section 10 of the Immigration and Asylum Act 1999 which is an appealable immigration decision as defined by Section 82(2)(g) of the Nationality, Immigration and Asylum Act 2002. That right of appeal is exercisable by the Appellant in country in accordance with Section 92(4)(a) of the 2002 Act as the Appellant had made a prior human rights claim. I so find.
4. As the substantive issues in the appeal have not been resolved by the First-tier Tribunal, I decided not to remake the decision but instead to remit the appeal to that Tribunal to be reheard there in accordance with paragraph 7.2(a) of the Practice Statements.

Decision

5. The decision of the First-tier Tribunal contained an error on a point of law and is set aside. The appeal is remitted to the First-tier Tribunal to be reheard by a Judge other than Judge of the First-tier Tribunal Perry.

Anonymity

6. The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I see no reason to do so.

Signed

Date

Upper Tribunal Judge Renton