



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

Appeal Number: AA/08407/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 2 March 2015**

**Decision sent to parties on:
On 5 March 2015**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**NISAR AHMAD
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss S Mardaner of Counsel

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Afghanistan, appeals with permission against the determination of First-tier Tribunal Judge Thomas promulgated on 22 December 2014, dismissing his appeal on asylum, humanitarian protection and human rights grounds. The appellant's grounds of appeal, which he drafted himself, may be summarised thus: he challenges the rationality

of the First-tier Tribunal's decision, both generally and in respect of Article 8 both within and outwith the Immigration Rules HC 395 (as amended).

2. When granting permission First-tier Tribunal Judge Gibb said this:

"3. Although the grounds are poorly drafted I have decided that they do raise matters that merit further consideration. It is arguable that the credibility reasoning rested on non-evidence-based plausibility points and failed to consider the country context and the appellant's age pre-departure and it is arguable that there was inadequate reasoning to support the finding that the appellant would have family support on return. The Article 8 assessment of the appellant's relationship with his British partner arguably did not consider EX.1 and EX.2 in Appendix FM and it is unclear why (the issue of whether this point was conceded, and if so why, would need consideration). It is arguable that the consideration of Article 8 outside the Rules did not refer to *Chikwamba* when considering the entry clearance option."

I would add to that there was also no consideration of *Nagre* exceptionality.

3. The Secretary of State filed a Rule 24 reply to the grant of permission but that also does not engage with Article 8 outside the Rules. I am not satisfied that the reasons that the Secretary of State gives in her Rule 24 reply of 3 February 2015 are good reasons to sustain this determination.
4. I do consider that the reasons challenge is made out and accordingly that there is a material error of law in the First-tier Tribunal determination and the decision will have to be remade. I consider that it is appropriate for it to be remade afresh in the First-tier Tribunal at Taylor House where it was determined last.

Conclusions

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision. The decision on this appeal will be remade in the First-tier Tribunal on a date to be fixed, with no findings of fact or credibility preserved.



Signed:
Upper Tribunal Judge Gleeson

Date: 4 March 2015