



IAC-AH-DN-V1

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

Appeal Number: DA/01745/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 21 July 2015**

**Decision & Reasons Promulgated  
On 18 August 2015**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**MUHAMMAD MUSTAJAB ALI RAO  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Nicholson, instructed by Salam & Co Solicitors

For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant Muhammad Mustajab Ali Rao was born on 29 December 1982 and is a male citizen of Pakistan. He appealed against the decision of the respondent dated 27 August 2014 to refuse to revoke a deportation order. The First-tier Tribunal (Judge Lloyd-Smith) in a decision promulgated on 10 December 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I was assisted at the outset of this hearing by Mr Harrison, for the respondent, who did not seek to uphold the judge's decision. Mr Harrison accepted that the judge had erred in law. At [27], the judge had written:

"It is accepted that in the refusal letter [of the respondent] that the appellant has a subsisting relationship with both his partner and child and that it would be unduly harsh to expect either of them to live in Pakistan with the appellant."
3. Notwithstanding this recording of a clear concession made by the respondent in the refusal letter, the judge went on to find [28] that the appellant's wife could possibly "leave with the appellant so that family life could be built in Pakistan." Again at [28] the judge noted, referring to the appellant's wife:

"It is not a culture that is unknown to [the appellant's wife] and whilst there may be a period of adaptation she may decide that the initial upheaval would be worth it for the family to remain as a unit. Whilst that may be harsh initially I do not find it would be unduly harsh."
4. In her consideration of the concession made by the respondent (see above) the judge had also noted:

"What is not accepted is that it would be unduly harsh for the wife and the child to remain in the UK and the appellant to be deported."
5. I am not satisfied that the judge has addressed her mind to the relevant provisions of the Immigration Rules or that she has given adequate reasons for finding that (to use her own words) the impact of deportation "may be harsh, even very harsh, ... [but] does not necessarily amount to it being unduly harsh" [26]. A main purpose of any judicial decision is to explain to a losing party exactly and in very clear terms why he or she has lost. It is not clear to me exactly what provisions the judge is applying in the passage of her decision from which I have quoted above or, indeed, the principles which she has used to make distinctions between degrees of harshness, in particular between "very harsh" and "unduly harsh." Anyone reading the decision is likely, in my opinion, to be left confused by the judge's analysis.
6. In the circumstances, it is appropriate to set aside this decision. Given the need for a thorough re-investigation of the evidence, it is appropriate that the matter be remitted to the First-tier Tribunal for that Tribunal to remake the decision.

### **Notice of Decision**

The decision of the First-tier Tribunal which was promulgated on 10 December 2014 is set aside. The appeal is remitted to the First-tier Tribunal (not Judge Lloyd-Smith) for that Tribunal to remake the decision. None of the findings of fact shall stand.

No anonymity direction is made.

Signed  
Upper Tribunal Judge Clive Lane

Date 4 August 2015