



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

Appeal Number: IA/21110/2014

THE IMMIGRATION ACTS

Heard at Manchester

On 13th April 2015

**Decision & Reasons
Promulgated**

On 30th April 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

**MR SANJAYKUMAR MAHIJIBHAI PATEL
(ANONYMITY DIRECTION NOT RETAINED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Chotu

For the Respondent: Mr Harrison

DECISION AND REASONS

Introduction

1. The Appellant born on 27th August 1980 is a citizen of India. The Appellant was represented by Mr Chotu. The Respondent was represented by Mr Harrison a Presenting Officer.

Substantive Issues under Appeal

2. The Appellant had applied for leave to remain in the UK as a long resident or as the partner of a person settled in the UK or as a father of children settled in the UK. The Respondent had refused the Appellant's application on 17th April 2014. The Appellant had appealed that decision and the appeal was heard by First-tier Tribunal Judge Foudy sitting at Manchester on 20th October 2014. The judge had allowed the Appellant's appeal under Article 8 of the ECHR.
3. The Respondent had sought permission to appeal that decision and permission was granted by Designated Judge Woodcraft on 15th December 2014 on the basis that it was arguable the judge had inadequately reasoned her proportionality findings. Directions were issued for the Upper Tribunal firstly to consider whether an error of law had been made in this case or not and the matter comes before me in accordance with those directions.

Submissions on Behalf of the Respondent

4. Mr Harrison adopted the Grounds of Appeal outlined in this case and said that there had been an insufficiency of adequate reasoning given by the judge.

Submissions on Behalf of the Appellant

5. It was submitted that the judge had fairly dealt with this case and had dealt with the matters and proportionality adequately.
6. At the conclusion of the hearing I reserved my decision to consider the documents and submissions made. I now provide my decision with reasons.

Decision and Reasons

7. The judge at paragraph 5 of her decision had outlined in summary form the history of this case as it related both to the Appellant and to the Appellant's wife. The judge had found correctly for reasons provided at paragraphs 6 to 11 that the Appellant could not succeed in remaining in the UK under the terms of the Immigration Rules on any of the potential bases that had been raised in his application. It is clear from those paragraphs that the judge had dealt fairly and robustly with the matters presented and was entitled to reach the conclusions that she did.
8. The judge thereafter had identified the potential need to look at this case outside of the Immigration Rules under Article 8 and at paragraph 12 had set out the correct approach to be considered in such circumstances referring as she did to case law on this matter. Thereafter at paragraphs 13 to 19 she had set out reasons why she found it was pertinent to look at this case outside of the Immigration Rules under the terms of Article 8 ECHR and why in the somewhat unusual circumstances of this case she

found that it would be disproportionate to require the Appellant to leave the United Kingdom. Her reasoning is concise. She clearly had in mind the case law relating to consideration of cases outside of the Immigration Rules and she clearly had in mind in reaching her conclusion Section 117 of the 2002 Act as she noted at paragraph 21 of her decision. The conciseness and clarity in her conclusions may in part reflect her experience in this field and in family law. The evidence and reasoning discloses that the conclusion reached by the judge was reasonably open to her in this case and while she was not assisted by the absence of a Presenting Officer the approach that she adopted to the law discloses no material error.

Notice of Decision

I find no error of law was made by the judge in this case and uphold the decision of the First-tier Tribunal.

No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Lever