



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

Appeal Number: IA/26509/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 11 June 2015**

**Determination Promulgated
On 15 June 2015**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**MR SIKANDER ZAMAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms A Khalaf, solicitor

For the respondent: Mr D Clerk, Senior Office presenting Officer

DETERMINATION AND REASONS

1. The appellant is the Secretary of State for the Home Department. The respondent is a citizen of Pakistan born on 25 September 1988. However, for the sake of convenience I shall continue refer to Mr Zaman as “the appellant” and the Secretary of State as “the respondent” which are the designations they had at the First-tier Tribunal.
2. The appellant’s appeal was against the decision of the respondent, refusing to issue him with a residence card as a dependant extended family member of an EEA national pursuant to regulation 8 of the

Immigration (European Economic Area) Regulations 2006 (the '2006 Regulations').

3. First-tier Tribunal Judge Adio allowed the appellant's appeal in a determination promulgated on 12 December 2014. Permission to appeal was granted by First-tier Tribunal Judge Ford on 29 January 2015, stating that it is arguable that there is a material error of law in the determination.
4. The appeal came before me on 17 March 2015 and I found in my error of law decision dated 20 March 2015 that there was an error of law in the determination of First-tier Tribunal Judge Adio. I found that the Judge made a material error of law in her determination in her assessment as to whether the appellant was dependent on his uncle while living in Pakistan as well as his dependency on his uncle in the United Kingdom or that his uncle was the head of household in which the appellant lived.
5. On 17 March 2015, the appellant's then representative, Miss Ahmed agreed that the appeal be heard in the Upper Tribunal. However at the hearing before me on 11 June 2015, the appellant's representative, Ms Khalaf made an application for the appeal to be sent back to the First-tier Tribunal.
6. Mr Clerk submitted that there was no reason why I should not be able to hear the appeal in the Upper Tribunal. He said that in the event I did send it back to the First-tier Tribunal, the evidence before the first-tier Tribunal Judge Aido can be referred to at the re-hearing before the First-tier Tribunal. Ms Khalaf accepted that evidence recorded in the determination of first-tier Tribunal Judge Aido can be referred to because there are no discrepancies in the evidence anyway.
7. The other reason why the appeal could not continue in the Upper Tribunal was because there was no appellant's bundle available. The appellant's bundle in the possession of Miss Khalaf had remarks written on it and therefore could not be utilised. The appeal therefore could not proceed on the day in any event.
8. In the circumstances, I direct that the appeal be placed before any First-tier Tribunal Judge with the exception of First-tier Tribunal Judge Aido.
9. I further direct that the evidence produced before Judge Aido and recorded in her determination can be referred to at the hearing before the First-tier Tribunal for all purposes.

This 11th day of June 2015

Signed by

.....
Mrs S Chana
A Deputy Judge of the Upper Tribunal