



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

Appeal Number: IA/20144/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 8 February 2016**

**Decision & Reasons Promulgated
On 15 February 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**MATTHEW BRIAN PARKER
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Pennington of Counsel

For the Respondent: Mr Staunton a Home Office Presenting Officer

DECISION AND REASONS

Background

1. The Respondent refused the Appellant's application for indefinite leave to remain on the basis of having United Kingdom Ancestry, and the decision requiring him to leave the United Kingdom, on 29 January 2016. His appeal against the refusal of that was dismissed by First-tier Tribunal Judge Brookfield ("the Judge") following consideration of the papers on 5 August 2015.

2. Curiously, the Judge allowed the appeal to a limited extent, namely for the Respondent to consider an application for an extension of his stay on the grounds of his United Kingdom Ancestry. This turned out to be irrelevant.

The grant of permission

3. First-tier Tribunal Judge Nightingale granted permission to appeal (20 December 2015) on the following ground. It is arguable that the Judge materially erred by preparing the decision on 5 August 2015 which was before the deadline for submission of evidence on 14 August 2015. In the intervening period the Appellant had submitted the required English language certificate, that being the only basis on which the application had been refused.

Respondent's position

4. Mr Staunton conceded that the Judge had materially erred by determining the appeal prior to the time period allowed for the submission of evidence and accordingly the Judge's decision should be set aside. He further conceded that the Appellant had submitted evidence on 13 August 2015 of having passed the required English language examination on 4 August 2015. As this was not a "points based appeal" the English language certificate could be considered. He conceded that the appeal should be allowed.

Discussion

5. Given the helpful concessions made by Mr Staunton, I did not need to hear from Ms Pennington.

Decision:

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

I set aside the decision.

I remake the decision.

I allow the appeal.

Signed:
Deputy Upper Tribunal Judge Saffer
9 February 2016