Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/04286/2015
HU/04291/2015
HU/04299/2015
HU/04293/2015
HU/04298/2015

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reason Promulgated**
On 6 October 2017	**17 October 2017**

Before

UPPER TRIBUNAL JUDGE GILL

Between

(1) MR B S	First Appellant
(2) MRS. S	Second Appellant
(3) MASTER AM S	Third Appellant
(4) MISS S	Fourth Appellant
(5) MASTER AK S	Fifth Appellant

(ANONYMITY ORDER MADE)

And

The Secretary of State for the Home Department Respondent

Anonymity

I make an order under r.14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the minor appellants. I take the view that disclosure of the adult appellants' names risks disclosing the identities of the minor appellants. I therefore issue an anonymity order which extends to the adult appellants (i.e. the first and second appellants). No report of these proceedings shall directly or indirectly identify them or any of the minor appellants. This direction applies to both the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings. **The parties at liberty to apply to discharge this order, with reasons.**

Representation:

For the Appellants: Ms S Iqbal, of Counsel, instructed by Arona St James Solicitors.
For the Respondent: Mr P Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellants are nationals of Algeria. The first appellant, born on 15 May 1970, is the husband of the second appellant, born on 23 August 1971. The third and fifth appellants are their sons. The fourth appellant is their daughter. All three children were born in the United Kingdom, the third appellant on 2 February 2009, the fourth appellant on 26 May 2011 and the fifth appellant on 25 September 2013.

2. The appellants have been granted permission to appeal the decision of Judge of the First-tier Tribunal Malone who, in a determination promulgated on 18 January 2017, dismissed their appeals under the Immigration Rules and on human rights grounds against a decision of the respondent of 31 July 2015 to refuse their representations on human rights grounds of 14 May 2012 supplemented by a questionnaire which they completed and which the respondent received on 3 April 2014 and a "*Statement of Additional Grounds*" dated 16 April 2014.

3. The respondent refused these representations on 1 May 2014. The appellants appealed the refusal. Their appeals were heard before Immigration Judge Wilsher who, in a determination promulgated on 16 February 2015, allowed the appeals to the extent of remitting the matter to the respondent for her further proper consideration. This led to the decision of 31 July 2015 which was the decision that is the subject of the instant appeals.

4. It follows that the decision of 31 July 2015 was a decision on the representations of 14 May 2012 supplemented by the questionnaire received by the respondent on 3 April 2014 and the "*Statement of Additional Grounds*" dated 16 April 2014. As at each of these dates, none of the children had lived in the UK continuously for a period of at least 7 years.

5. By the date of the hearing before Judge Malone, the third appellant was nearly 7 years 11 months old and had lived in the UK continuously since birth.

6. I shall hereafter refer to Judge Malone as the judge, unless I state otherwise.

7. Although it will be necessary to consider the judge's decision in greater detail later on in this decision, it suffices to say for the present that the judge had evidence that the fifth appellant suffers from Bilaterial Congenital Talipes Equivarus, also known as ‘club foot’. The judge had evidence from a Dr Manoj Ramachandran, the fifth appellant's consultant, including a letter dated 27 May 2015 in which Dr Ramachandran said that the fifth appellant’s prognosis was excellent if he continued to receive treatment but that “*If the treatment was unavailable to him, the condition will recur in virtually all cases and would need further casting and probable surgery, so it is better that he remains here and is treated in the UK*”. The judge also had before him a note dated 4 May 2016 from Dr Ramachandran to the effect that there was “*no equivalent non-operative treatment available in Algeria*” for the fifth appellant.

The issues

8. The issues in this appeal may be summarised as follows:

i) (Ground 1) Whether the judge erred in law by failing to decide whether the third appellant satisfied the requirements of para 276ADE(1)(iv) of the Immigration Rules.

ii) (Ground 2) Whether the judge erred in law in his consideration of the best interests of the children. The grounds contend that the judge erred in the following ways:

a) The judge erred by failing to consider whether there were *"considerations of substantial moment*" for the minor children not to be granted leave to remain on the basis of their rights to private lives.

b) The judge erred in taking into account the immigration histories of the first and second appellants when considering the Article 8 claims of the three children.

iii) (Ground 3) Whether the judge erred in law in his consideration of the medical evidence in relation to the fifth appellant. The grounds contend that the judge erred in the following ways:

a) At para 33 of his decision, the judge said that he was unable to attach *"any real weight"* to the view of Dr Ramachandran in the note dated 4 May 2016 that there was "*no equivalent non-operative treatment available in Algeria*" for the fifth appellant in Algeria because he had no evidence to indicate how Dr Ramachandran was competent to make such a statement and on what evidence he had based his opinion.

The grounds contend that the judge erred in failing to order the respondent to disclose a document that Dr Ramachandran had completed in response to a Home Office letter dated 27 April 2017 which the respondent had not provided to the judge. The judge therefore failed to consider whether this document would have contained evidence to indicate how Dr Ramachandran was competent to make such a statement and on what evidence he had based his opinion.

b) The judge erred in failing to give sufficient reasons for preferring the evidence of the NHS Choices website concerning the treatment available in Algeria for the fifth appellant over the evidence Dr Ramachandran.

Assessment

9. The judge's decision was a very detailed and careful assessment of the Article 8 claims of the appellants. I shall only quote from his decision to the extent necessary in order to deal with the grounds. As the grounds do not challenge significant aspects of the judge's reasoning and findings, my approach means that the reader will not get a full and proper understanding of the judge's reasoning and approach from reading my decision in isolation. I stress that it is necessary to read the judge's decision in full in order to appreciate that his assessment of the Article 8 claims was not only very detailed and careful but well-rounded and unassailable. In my judgement, permission to appeal to the Upper Tribunal should never have been granted. I make it clear that I reached this conclusion only after I had considered the grounds and submissions for the appellants.

10. I turn to deal with the grounds and submissions.

11. Ground 1 is the single ground upon which permission to appeal to the Upper Tribunal was granted by a Judge of the First-tier Tribunal granted permission.

12. Ground 1 is hopeless, for reasons which I will now give.

13. A child who is under the age of 18 years and who has lived in the United Kingdom continuously for a period of at least 7 years is eligible for consideration under para 276ADE(1)(iv) of the Immigration Rules and s.117B(6) of the Nationality, Immigration and Asylum Act 2002 (the "2002 Act") taken together with the definition of "*qualifying child*" in s.117D of the 2002 Act. These provide as follows:

> Para 276ADE(1)(iv) of the Immigration Rules:
>
> "276ADE (1). The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:
>
> …
>
> (iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; or"
>
> (my emphasis")
>
> Section 117B(6) of the 2002 Act:
>
> "(6) In the case of a person who is not liable to deportation, the public interest does not require the person's removal where—
>
> (a) the person has a genuine and subsisting parental relationship with a qualifying child, and
> (b) it would not be reasonable to expect the child to leave the United Kingdom.
>
> Section 117D of the 2002 Act:
>
> "117D Interpretation of this Part
>
> (1) In this Part—
>
> …
>
> "qualifying child" means a person who is under the age of 18 and who—
>
> (a) is a British citizen, or
> (b) has lived in the United Kingdom for a continuous period of seven years or more; …"

14. It is therefore plain that para 276ADE(1)(iv) specifically requires the qualifying period of 7 years' continuous residence to have been accumulated as at the date of application whereas there is no such limitation in the case of s.117B(6) of the 2002 Act. In the case of s.117B(6), the qualifying period of 7 years' continuous residence can be accumulated at the date of the hearing before a judge.

15. As I have said at para 4 above, the decision of 31 July 2015 in the instant case was a decision on the representations of 14 May 2012 supplemented by the questionnaire received by the respondent on 3 April 2014 and the "*Statement of Additional Grounds*" dated 16 April 2014.

16. Accordingly, whether the date of application was 14 May 2012 or 3 April 2014 or 16 April 2014, none of the children had lived in the UK continuously for a period of at least 7 years as at the date of application. It follows that the third appellant was simply not eligible for consideration under para 276ADE(1)(iv) of the Immigration Rules.

17. Accordingly, the judge did not err in law when he said, at para 17 of his decision, that none of the appellants could succeed under the Article 8 provisions contained in the Immigration Rules.

18. For the reasons given above, ground 1 as advanced in the written grounds is misconceived.

19. Since the third appellant had lived in the United Kingdom continuously for a period of nearly 7 years 11 months as at the date of the hearing, the judge correctly considered his case under s.117B(6) of the 2002 Act. He found, at para 67, that it would be reasonable to expect the third appellant to leave the United Kingdom, making it clear that, in reaching this finding, he had taken into account the fact that the first and second appellants had never been in the United Kingdom lawfully (para 67) and that he had taken into account the public interest factors (para 65).

20. At the hearing, Ms Iqbal sought to expand the scope of ground 1 as follows. She drew my attention to the provisions of GEN.1.9(a)(iii) of Appendix FM of the Immigration Rules. This provides:

> "GEN.1.9 In this Appendix:
>
> (a) the requirement to make a valid application will not apply when the Article 8 claim is raised:
>
> (i) …;
>
> (ii) …;
>
> (iii) in an appeal (subject to the consent of the Secretary of State where applicable); …"

21. In reliance upon GEN.1.9(a)(iii), Ms Iqbal submitted that the judge should have considered the position of the third appellant under the Immigration Rules and not merely outside the Rules under s.117B(6) of the 2002 Act.

22. However, GEN.1.9(a)(iii) simply does not assist the appellants for the following reasons:

23. Firstly, it is evident from the wording of GEN.1.9(a)(iii) that some sort of application, even if not a valid one, needs to be made for this provision to apply, whereas there was nothing before me to show that the appellants had made any application at all other than the "*application*" (i.e. the representations of 14 May 2012 supplemented as

stated at my para 4 above) that was the subject of the decision of 31 July 2015. However, even if this is wrong, the Secretary of State's consent is needed where applicable. Ms Iqbal did not explain whether this was one of those cases in which the Secretary of State's consent was required.

24. Secondly, and in any event, this point was plainly not argued before the judge. Accordingly, I cannot see how the judge can be said to have erred in law by failing to deal with an issue not relied upon before him.

25. I turn to ground 2.

26. I shall deal first with ground 2(b), i.e. that the judge erred in taking into account the immigration histories of the first and second appellants when considering the Article 8 claims of the three children.

27. Ground 2(b) is plainly misconceived, as it ignores the judgment of the Court of Appeal in MA (Pakistan) [2016] EWCA Civ 705 from which it is clear that the immigration histories of a child's parents do fall to be taken into account in deciding whether it is reasonable for the child to leave the United Kingdom. Ms Iqbal accepted that ground 2(b) was simply wrong.

28. I turn to ground 2(a), i.e. that the judge erred by failing to consider whether there were *"considerations of substantial moment*" for the minor appellants not to be granted leave to remain on the basis of their rights to private lives.

29. The phrase *"considerations of substantial moment*" emanates from the judgment of Lord Kerr in ZH (Tanzania) v SSHD [2011] UKSC 4 at para 46, which reads:

> "It is a universal theme of the various international and domestic instruments to which Lady Hale has referred that, in reaching decisions that will affect a child, a primacy of importance must be accorded to his or her best interests. This is not, it is agreed, a factor of limitless importance in the sense that it will prevail over all other considerations. It is a factor, however, that must rank higher than any other. It is not merely one consideration that weighs in the balance alongside other competing factors. Where the best interests of the child clearly favour a certain course, that course should be followed unless countervailing reasons of considerable force displace them. It is not necessary to express this in terms of a presumption but the primacy of this consideration needs to be made clear in emphatic terms. What is determined to be in a child's best interests should customarily dictate the outcome of cases such as the present, therefore, and it will require considerations of substantial moment to permit a different result."
>
> (my underlining)

30. The written grounds contend that, given that the judge had found at para 61 of his decision that "*the best interests of the children points to their remaining in the United Kingdom*", the judge erred in applying the test of reasonableness and that he should instead have considered the different test of whether there were *"considerations of substantial moment"*.

31. This ground is simply misconceived. Ms Iqbal accepted that Lord Kerr did not intend to set out a different test in using the phrase "*considerations of substantial moment*". Thus, insofar as the grounds contend that the judge applied the wrong test, they are simply misconceived.

32. Ms Iqbal advanced this aspect of the written grounds as follows. She submitted that the judge failed to consider *properly* the best interests of the children and the issue of whether it is reasonable for the children to leave the United Kingdom. When I asked her what errors of law were in the judge's decision, she submitted that the judge erred as follows:

    i) He placed undue weight on the immigration histories of the first and second appellants.

    ii) He simply concluded that it would be reasonable for the children to leave the United Kingdom and did not consider whether there were strong reasons for the children to leave the United Kingdom.

33. Dealing first with Ms Iqbal's submission that the judge had placed undue weight on the immigration histories of the first and second appellants, I consider that no authority is needed for the proposition that weight was a matter for the judge, it not having been suggested that the judge's decision was simply irrational or perverse. There is therefore nothing in the submission that the judge placed undue weight on the immigration histories of the first and second appellants.

34. The submission that the judge had simply concluded that it would be reasonable for the children to leave the United Kingdom and did not consider whether there were strong reasons for the children to leave the United Kingdom simply ignores the judge's careful and detailed reasoning. His findings that it would be reasonable for each of the three children to leave the United Kingdom were made not only by considering the individual circumstances of each child, having placed significant weight (in relation to the third appellant) on the fact that he had lived in the United Kingdom for a period in excess of 7 years, but also by considering the circumstances of this family and the extent of their private lives in the United Kingdom as well as their circumstances in Algeria if they were to leave the United Kingdom.

35. I said at my para 19 above, that the judge found, at para 67 of his decision, that it would be reasonable to expect the third appellant to leave the United Kingdom, making it clear that, in reaching this finding, he had taken into account the fact that the first and second appellants had never been in the United Kingdom lawfully (para 67) and that he had taken into account the public interest factors (para 65). Indeed, his reasons for concluding that it would be reasonable for the third appellant to leave the United Kingdom begin at para 18 of his decision and cover a range of matters, as follows:

    i) (Paras 18-21) the immigration histories of the parents. He rejected their evidence of the dates of their claimed entry into the United Kingdom.

    ii) (Paras 22-23) He found that the first appellant has been working illegally in the United Kingdom.

    iii) (Paras 24-26, 28 and 41) He considered the evidence in relation to the second appellant's medical complaint (she suffered from a congenital abnormality in her right ear) and the third appellant's medical complaint (he suffers from visual impairment) and noted that the medical evidence was over five years old (in the case of the second appellant) and over three years old (in the case of the third

appellant) and that there was no evidence that they were receiving ongoing treatment.

iv) (Para 27) He took into account the school reports and other documents before him all of which he said showed that all the children were doing well in the United Kingdom.

v) (Para 29) He noted that the fourth appellant did not suffer from health problems.

vi) (Paras 30-40 and 52) He considered the medical evidence in relation to the fifth appellant in considerable detail and concluded that there would be treatment available to him in Algiers that was comparable to that available in the United Kingdom and that is free.

vii) (Paras 42-43) He considered the evidence as to how this family had maintained and accommodated themselves in the United Kingdom.

viii) (Paras 44-45) He considered the evidence as to the languages spoken within this family and found that it was likely that the third appellant speaks Arabic and French in addition to English and that it was likely that the fourth appellant did as well.

ix) He considered the family ties that the first and second appellants had in Algeria, their evidence that there would be no home for them and the children in Algeria and no work for the first appellant. He found it likely that the financial support that they were receiving from friends in the United Kingdom would continue and likely that the siblings of the first and second appellants would rally around to help them (paras 46-49). He therefore found that the family would find accommodation and the first appellant would find employment (para 57).

x) (Para 50) He noted that there was no evidence to show that the children would not be able to access education in Algiers.

xi) He made it clear that he considered the best interests of the children as a paramount consideration (para 54), taking into account that they will reside with their parents and continue to be brought up in a loving atmosphere whatever decision is made in this appeal, that it was likely that the children speak Arabic and French, that it was probable that they have been brought up with regard the Algerian and Islamic culture and, if removed to Algeria, they would be going to live in the country of their nationality (para 55); that the children were performing well at school, that only the fifth appellant had a condition that needed regular monitoring but adequate treatment was available in Algiers (para 56); and that the family would find accommodation and the first appellant would find employment (para 57).

xii) At para 58, he said that he attached significant weight to the fact that the third appellant had never lived anywhere there than the United Kingdom and had now lived here for more than seven years. He also said that he bore in mind that the third appellant was not yet 8 years old and that his private life to date will have been almost exclusively centred on his parents and siblings. He considered that the same reasoning applied, *a fortiori*, to the fourth and fifth appellants.

xiii) He then said, at para 61, that he found that "*a consideration of the children's best interests points to their remaining in the United Kingdom, but only just*" (my underlining).

xiv) At para 62, the judge quoted para 46 of the judgment of the Court of Appeal in MA (Pakistan), where Elias LJ said, inter alia, that, once the seven years' residence requirement is satisfied, there need to be *"strong reasons"* for refusing leave.

xv) At paras 68-70, the judge considered the delay on the respondent's part in refusing the application, this being the delay from 14 May 2012 to 1 May 2014, but he also noted that the appellants were refused leave on 26 May 2011 with no right of appeal, that the parents have knowingly lived in the United Kingdom under the shadow of removal, that the second appellant speaks English and the first appellant does not and that the first and second appellants have never been financially independent.

xvi) The judge then concluded (para 71) that it would be proportionate to remove all of the appellants, that the maintenance of effective immigration control requires this to be done and there were no compelling circumstances as to why any of the appellants should be granted leave to remain in the United Kingdom outside the Immigration Rules.

36. I accept that the judge did not state, in terms, what the strong reasons were for concluding that the decision was proportionate. However, it is plain that he did consider whether there were strong reasons, having quoted specifically from the very paragraph in MA (Pakistan) where the Court of Appeal specifically stated the need to find strong reasons. It is clear, when the judge's decision is read as a whole, that he did find there were strong reasons, beginning with the immigration histories of the parents, that the first appellant had worked illegally in the United Kingdom, the evidence that this family was not financially independent and that the first appellant does not speak English. In relation to financial independence, he plainly had evidence before him that the fifth appellant was receiving medical treatment in the United Kingdom. There was no evidence before the judge that such treatment was being funded privately.

37. I therefore reject Ms Iqbal's submission that the judge did not consider whether there were strong reasons for the children, including the third appellant, to leave the United Kingdom. He did consider whether there were strong reasons having given such weight as he considered appropriate to the evidence before him of their private lives and, in the case of the third appellant, significant weight on the length of his residence in the United Kingdom.

38. At the hearing, Ms Iqbal referred me to specific pages in the appellants' bundle before the judge. There was a letter from the third appellant at page 75; a letter from his head teacher at page 34, evidence of his certificates and integration at pages 69-71 and a school report at pages 76-78. However, there is no reason to think that the judge did not take all of this evidence into account, as well as the evidence concerning the fourth and fifth appellants. The judge said at para 27:

> "27. [The third appellant] is now just shy of 8 years old. [The fourth appellant] is about 5 ½. [The fifth appellant] is approximately 3 ¼ . All the children were born in the United

> Kingdom and none has left the United Kingdom. The elder two attend Thorpe Hall Primary School, Walthamstow. [The fifth appellant] has started at Thorpe Hall Nursery, where the other went as well. I had numerous school reports and other documents relating to their respective educational histories. It is clear they are all doing well."

(My emphasis)

39. Judges are not obliged to refer in specific terms to every piece of the evidence before them. In the instant case, and given that it is clear from para 27 of his decision that he was aware of the existence of the very documents that Ms Iqbal referred me to, I am satisfied that the judge did take into account all of the material relied upon before him in relation to the minor appellants.

40. There is therefore no substance in ground 2. I turn to ground 3.

41. There are two aspects to ground 3. The first contends that the judge erred by failing to order the respondent to disclose a document which Dr Ramachandran had completed and submitted to the respondent. The document in question is a document completed by Dr Ramachandran in response to a Home Office letter dated 27 April 2017. The grounds contend that the judge therefore failed to consider whether this document would have contained evidence to indicate how Dr Ramachandran was competent to make such a statement and on what evidence he had based his opinion in the note dated 4 May 2016 that there was "*no equivalent non-operative treatment available in Algeria*" for the fifth appellant in Algeria.

42. I put to Ms Iqbal at the hearing that it was open to the appellants' representative to have submitted the document in question to the judge. She did not disagree. In any event, it is simply speculation to suggest that the document contains some information of relevance to the issue whether Dr Ramachandran was competent to give the opinion he gave, that there was no equivalent non-operative treatment available in Algeria for the fifth appellant in Algeria. It was open to the appellants to have submitted the document for the hearing before me and no doubt that they would have been advised to do so if the document contained any relevant evidence. This was not done.

43. I therefore reject ground 3(a).

44. I turn to ground 3(b), which is that the judge erred in failing to give sufficient reasons for preferring the evidence of the NHS Choices website concerning the treatment available in Algeria for the fifth appellant over the evidence of Dr Ramachandran.

45. The judge considered the medical evidence concerning the fifth appellant at pars 30-40 of his decision, which read:

> "30. [The fifth appellant] has Bilateral Congenital Talipes Equivarus, right foot atypical. He has had six Ponseti casts to date. He has bene treated with boots and bars to be worn 23 hours out of 24 hours a day for three months. That was the situation as at 2 January 2014. He had had tenometies performed in 2003. I had a letter from Dr. Manoj Ramachandran to the Home Office dated 27 May 2015. Dr. Ramachandran is [the fifth appellant's] consultant.
>
> 31. The letter is short and states that "the prognosis is excellent with minimal risk of recurrence of he [the fifth appellant] continues to receive treatment in the UK. If treatment was unavailable to him the condition will recur in virtually all cases and he

would need further casting and probable surgery, so it is better that he remains here and is treated in the UK".

32. The letter also recorded: "I completed your enclosed document", referring to the Home Office's letter of 27 April 2015. The completed document was not provided to me by the Respondent. Mr. Singer submitted that that was unfortunate. I see no great significance in that omission, particularly as there is the further comment raised by Mr. Ramachandran in a note dated 4 May 2016. That was to the effect that there was "no equivalent non-operative treatment available in Algeria".

33. I had no evidence to indicate how it is that Mr. Ramachandran is competent to make such a statement and on what evidence he based his opinion. I am unable to attach any real weight to his observation.

34. [The second appellant] accepted, in her oral evidence, that there is a hospital in Algiers, the city from which her and her husband's family comes. She told me that it does not have the same "club foot" treatment as that available here. She told me she had been told this by a friend's family. She told me that treatment is not free for all children in Algeria. She told me "We know the situation".

35. I had background information relating to the treatment available to [the fifth appellant] in Algiers. I had an answer to a COI request. The answer was dated 21 July 2015. The request was for information as to the treatment of Congenital Talipes Equivarus in Algeria.

36. The reply stated that "Outpatient medical treatment and follow up by a paediatrician is available at Centre Hospitalo - Universitaire Mustapha Bacha in Algeria. Follow up by an orthopaedist/orthopaedic surgeon was also available. The services were provided through a "Public Facility". Medical devices, including ankle-foot orthosis, orthopaedic shoes and lower and upper limb arthoses were available at an identified Public Facility in Algiers.

37. An extract from "Our Africa" website stated "Free medical care was introduced in Algeria in the 1970s". The extract stated that this was now available for children and the elderly and those on low incomes. The extract was dated 23 July 2015.

38. I also had a "NHS Choices" extract entitled "Club Foot". The following appeared under the heading "Outlook":

> "The vast majority of children treated with the Ponseti method will have pain-free, normal-looking feet that function well. Most children are able to learn to walk by the usual age and can participate in activities such as sports when they're older.
>
> Some children may be left with a slightly shorter leg and smaller foot on one side if only one of their feet is affected. This won't usually cause any significant problems, but it may mean that your child will be less mobile and may get tired quicker than other children."

39. The US Department of State report of 8 April 2010 stated that the Algerian government provided free medical care for all citizens - including children with disabilities - albeit in generally rudimentary facilities.

40. I therefore conclude that there would be treatment available to [the fifth appellant] in Algiers, treatment comparable to that available in this country, that is free."

46. There was no attempt to engage with the judge's reasoning to explain precisely why it is said that he gave insufficient reasons for preferring the evidence of the NHS Choices website concerning the treatment available in Algeria for the fifth appellant

over the evidence of Dr Ramachandran, nor did Ms Iqbal engage with the judge's reasoning at paras 30-40 of his decision.

47. Instead, Ms Iqbal referred me to the fact that Dr Ramachandran was a specialist in his field, that he has been treating the fifth appellant since birth, that the fifth appellant has six-monthly reviews with Dr Ramachandran, that Dr Ramachandran had specifically said that there was no equivalent non-operative treatment for the fifth appellant in Algeria and that the second appellant had also said that there was no such treatment in Algeria, as recorded by the judge at para 34 of his decision.

48. I have to say that Ms Iqbal's submissions before me on this issue, which I have set out in full in the preceding paragraph, amount to no more than a disagreement with the judge's reasoning. They did not disclose any error of law on the part of the judge.

49. For all of the reasons given above, I am satisfied that the judge did not err in law. The written grounds were simply unarguable and permission should not have been granted.

Decision

The decision of the First-tier Tribunal did not involve the making of an error on a point of law.

Signed Date: 16 October 2017
Upper Tribunal Judge Gill