



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

Appeal Number: HU/06243/2015

**THE IMMIGRATION ACTS**

**Heard at City Centre Towers  
On 10 July 2017**

**Decision & Reasons Promulgated  
On 18 August 2017**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**NOOR BADSHAH**

(ANONYMITY DIRECTION NOT MADE)

Respondent

**Representation:**

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer

For the Respondent: Miss S Kauser, Solicitor, Kausers Solicitors

**DECISION AND REASONS**

(confirming an extempore judgment)

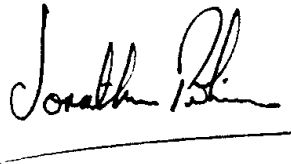
1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal allowing on human rights grounds an appeal by the respondent, hereinafter "the claimant", against the decision of the Entry Clearance Officer (Islamabad) refusing him leave to enter the United Kingdom to settle as the spouse of a British citizen.
2. The First-tier Tribunal Judge resolved several points in the claimant's favour but decided that the claimant did not satisfy the financial requirements of the Rules. Notwithstanding that finding, the Judge allowed the appeal under Article 8 of the European Convention on Human Rights.
3. There was some disagreement about quite what test had to be applied.

4. I do not need to say very much this morning because there was clear agreement between Mr Mills and Miss Kauser that the application of the correct test, not the usual test in immigration cases but one that was applicable for a person who was on benefits, would have led to the appeal being allowed on human rights grounds.
5. The point is that there was a clear finding by the judge that the claimant did satisfy all but the financial requirements of the Rules. That finding was wrong and in those circumstances the Secretary of State's objection to the decision falls away as Mr Mills made clear. The fact that a person satisfies the requirements of the rules does not necessarily lead to the appeal being allowed on human rights grounds but it is a very strong factor pointing in favour of the appeal being allowed and although it may be that the judge's reasoning was not quite right, the judge reached the correct conclusion. The reasons for allowing the appeal on human rights grounds are still more compelling when it is appreciated that the claimant did in fact satisfy the rules.
6. Mr Mills is content that that is recorded and I therefore dismiss the Secretary of State's appeal acting on behalf of the Entry Clearance Officer.

**Decision**

Appeal dismissed.

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

A handwritten signature in black ink, appearing to read 'Jonathan Perkins', written over a horizontal line.

Dated 18 August 2017