



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

Appeal Number: IA/18563/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 24 October 2017**

**Decision & Reasons
Promulgated
On 06 November 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE G A BLACK

Between

**IMMACULATA CHIMKASIMMA AMAEFULE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs M A Hodgson (Counsel)

For the Respondent: Mr E Tufan (Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal by the appellant in respect of a Decision and Reasons by First-tier Tribunal Judge Majid (Ftj) promulgated on 27 September 2016, in which he dismissed the appeal on human rights grounds. The appellant's application for indefinite leave to remain as a Tier 1 (General) migrant was refused by the Secretary of State relying on paragraph 322 (2) and paragraph 245CD Immigration rules.
2. The grounds of appeal argue that the decision contained errors of law.

3. Permission was granted by First-tier Tribunal Judge Hollingworth as follows:
- “1. It is arguable that the judge has fallen into error in considering whether the Immigration Rules have been fulfilled, in referring at paragraph 14 to everyone in the immigration field being conscious of the fact that ‘jobs’ are needed by the local people. The judge referred to the fiscal crisis which was being undergone. Everyone, the judge stated, was expected to make a contribution to alleviate it.
 2. The judge has dismissed the appeal. It appears that the appeal has been dismissed purely on the footing that the Immigration Rules were not fulfilled. At paragraph 15 of the decision the judge has referred to not being able to ignore the ‘legal requirements’ stipulated by immigration law.
 3. It is arguable that the judge should have set out a fuller analysis of the reasons for reaching the conclusion that the Immigration Rules were not fulfilled. It is arguable that at paragraph 12 of the decision, the judge has not set out sufficiently clearly how the conclusion has been reached that the appeal should be dismissed as is stated at the conclusion of paragraph 12, in the light of the judge’s references to the ambit and nature of the evidence adduced in relation to the income of the appellant.
 4. The judge has referred to not being able to ignore all other evidence including the oral evidence of the appellant in reaching a decision. It is unclear what weight has been attached by the judge if any to each element referred to in the context of the overall evidence in reaching the conclusions set out.
 5. It is arguable that the judge’s conclusion at paragraph 12 of the decision, that the appeal should be dismissed has not been based on factors bearing upon that decision, given the subsequent reference by the judge to the fiscal crisis which was being gone through and consciousness of the fact that jobs were needed by local people.”
4. Both representatives conceded that the determination could not stand as there were material errors of law as set out in the grounds of appeal, some of which were errors that were raised in the Upper Tribunal decision of **MM v SSHD and Others**, heard on 27 June 2017.
5. In particular, I am satisfied that the Tribunal Judge failed to make proper findings in respect of the evidence before him, in particular by referring to evidence from HMRC which in fact was not before the Tribunal.

Notice of Decision

6. I conclude that there are material errors of law in the decision. All the grounds of appeal relied on by the appellant are made out. The decision is set aside and remitted for rehearing at Taylor House (excluding Judge Majid).

No anonymity direction is made.

Signed
Deputy Upper Tribunal Judge G A Black

Date 3.11.2017

TO THE RESPONDENT
FEE AWARD

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award.

Signed
Deputy Upper Tribunal Judge G A Black

Date 3.11.2017