



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: DA/00138/2018

THE IMMIGRATION ACTS

Heard at Field House
On 27 July 2018

Decision & Reasons Promulgated
On 23 August 2018

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

G I

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr S Walker

For the Respondent: in person

DECISION AND REASONS

1. The Secretary of State appeals with permission against the decision of First-tier Tribunal Judge Ross promulgated on 23 April 2018 in which he allowed the appeal of G I against the decision of the Secretary of State to make a deportation order against her.
2. GI's has two children born in the United Kingdom. There are continuing proceedings about them in the Family Court. In those circumstances, I consider that it is proper to make an anonymity order to prevent the

children from being identified in the light of section 97(2) of the Children Act 1989

3. The deportation order was made on the basis of the convictions that GI had incurred which are set out in detail in the judge's decision at paragraph 3. There is no dispute about those but it is important to note that in this case the respondent's case was that she had acquired the permanent right of residence having arrived in the United Kingdom in 2010, having stayed here initially as a student and then obtaining cards which allowed her to remain here as a worker. It is also her case that she worked here up to and including maternity leave while her first child was born in 2014. The Secretary of State did not however accept that the GI had acquired permanent residence given the lack of evidence.
4. Judge Ross accepted the evidence put before him that the appellant had obtained the permanent right of residence, noting her contract of employment and also the evidence that she had given. He concluded on that basis at paragraph [20] that her conduct did not represent a genuine, present and sufficiently serious threat to the public and/or that she represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. The judge also concluded that the decision was disproportionate.
5. The Secretary of State sought permission to appeal on the grounds that the judge had erred first in concluding on very limited evidence that the respondent had acquired permanent residence, and second had made a material misdirection in law in failing properly to have regard to Schedule 1 to the Immigration (Economic Area) Regulations 2016 and in concluding that the deportation was justified and proportionate.
6. When the matter came before me the respondent was able to provide a letter from HM Revenue & Customs which sets out in detail her employment, pension and benefits history. In the light of that Mr Walker accepted that it was shown that the respondent had acquired the permanent right of residence and that on that basis the appellant's case fell away, the Secretary of State in effect accepting that she could not show that there were serious reasons as required by the 2016 Regulations, such that deportation was necessary.
7. In the circumstances therefore I am satisfied that the decision of the First-tier Tribunal did not involve the making of an error of law and I uphold its decision.

Notice of Decision

1. The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 13 August 2018

A handwritten signature in black ink, appearing to read 'Jonathan Rintoul', written in a cursive style.

Upper Tribunal Judge Rintoul