



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

Appeal Number: EA/03626/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 11 January 2018**

**Decision & Reasons Promulgated
On 12 January 2018**

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

**HEDAYATALLAH KERAMATI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Benitez, counsel instructed by Kilic & Kilic Solicitors
For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Ian Howard, promulgated on 30 August 2017. Permission to appeal was granted by First-tier Tribunal Judge Alis on 20 October 2017.

Anonymity

2. No direction has been made previously, and there is no reason for one now

Background

3. On 23 September 2015, the appellant applied for a residence card as confirmation of a right to reside in the United Kingdom as the extended family member of an EEA national. That application was refused on 8 March 2016.

The appeal before the First-tier Tribunal

4. This appeal was considered on the papers and dismissed by the First-tier Tribunal, after directions were sent to the appellant's representative seeking representations regarding the decision in Sala (EFM's: Right of Appeal) [2016] UKUT 00411 (IAC).

The grounds of appeal

5. Permission to appeal was granted on the basis sought, namely that Sala had been overturned.

The hearing

6. Mr Clarke advised me that the appeal was unopposed and he agreed with Ms Benitez that the matter should be remitted to the First-tier Tribunal for a hearing.

Decision on error of law

7. This appeal concerns an application for a residence card which was made under the Immigration (European Economic Area) Regulations 2006. In view of the judgment in Khan [2017] EWCA Civ 1755, the decision of the First-tier Tribunal that there is a want of jurisdiction in such cases following Sala (EFM's: Right of Appeal) [2016] UKUT 00411 (IAC), is simply incorrect.

Decision

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

The decision of the First-tier Tribunal is set aside.

The appeal is remitted, de novo, to the First-tier Tribunal to be heard at Taylor House, with a time estimate of 2 hours by any judge except First-tier Tribunal Judge Ian Howard.

Signed

Date

Upper Tribunal Judge Kamara