



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/04069/2016
EA/04071/2016
EA/04074/2016

THE IMMIGRATION ACTS

**Decision & Reasons Promulgated
On 15th June 2018**

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

**SATINDER [S]
JATINDER [K]
[J P]
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Introduction

1. The appellants are citizens of India who were born on (i) 12.11.1984, (ii) 08.08.1983, and (iii) 05.12.2012, respectively. They made applications to the Secretary of State for EEA residence cards. Their applications were refused in decisions dated 03.03.2016, for reasons that I need not set out herein.

Decision of the First-tier Tribunal

2. The appellants lodged their appeals to the First-tier Tribunal. Those appeals came before First-tier Tribunal Judge Kelly, who concluded in a decision sent on

27.07.2017, that the First-tier Tribunal did not have jurisdiction to determine the appeals. No findings were made in relation to the substance of the appeals. The Judge's conclusion was informed by the guidance given by this Tribunal in Sala [2016] UKUT 00411.

3. The appellants appealed such decision to the Upper Tribunal and First-tier Tribunal Judge Mailer granted permission in a decision sent on 25.05.2018.
4. In the same decision, First-tier Tribunal Judge Mailer indicated that the Upper Tribunal is likely to find an error of law, set aside the decision of the First-tier Tribunal and remit the cases to the First-tier Tribunal. A party opposed to this course was directed to inform the Upper Tribunal in writing (giving reasons), within 7 days from the date the decision. In the absence, that document was to stand as a decision made in the terms set out therein.
5. The matter has come before me.

Discussion

6. As set out in the decision of First-tier Tribunal Judge Mailer, the issue of jurisdiction has been resolved, following the Court of Appeal decision in Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755.
7. The Upper Tribunal has not received any relevant correspondence from either party within the stipulated timeframe. Accordingly, the decision of First-tier Tribunal Kelly is set aside and the appeals are remitted back to the First-tier Tribunal to be heard afresh.

Decision

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

The appeals are remitted to the First-tier Tribunal.

Signed:

Dated: 13.06.2018



Upper Tribunal Judge O'Connor