



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

Appeal Number: HU/08474/2017

THE IMMIGRATION ACTS

Heard at Field House

On 1 October 2018

**Determination & Reasons
Promulgated**

On 5 October 2018

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

**TANVEER [A]
(ANONYMITY ORDER NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Z Bantleman, of Counsel, instructed by St Law Solicitors

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a Pakistani national born on 1 January 1961. He challenges the determination of First-tier Tribunal Judge N M K Lawrence, promulgated on 25 June, dismissing his human rights appeal. He relies on his family life with his British wife and three

British children. the respondent was not satisfied that the marriage was genuine and subsisting due to a previous separation.

2. Permission to appeal against the determination of the First-tier Tribunal was granted by Judge Saffer on 25 July 2018 on the basis that the judge had arguably erred in failing to make any findings on the (oral and written) evidence of the appellant's three children as to the issue of the genuineness of the relationship between their parents. The matter then came before me on 1 October 2018.

3. **The Hearing**

4. I heard submissions from the parties. A full note of the submissions is set out in my Record of Proceedings. For the appellant, Ms Bantleman drew my attention to a great number of errors in the determination; the judge's failure to have any regard to the oral and written evidence of the appellant's three children as to the relationship between their parents, his failure to consider the supporting evidence from family friends, the perverse and conflicting findings with regard to the adverse credibility findings in relation to both the appellant and his wife and his flawed approach to article 8: the application of the wrong test, the failure to consider documentary evidence as to the appellant's involvement in family life and the absence of any consideration of whether it would be reasonable to expect four British nationals to relocate with the appellant to Pakistan.

5. In response, Ms Everett very fairly and properly conceded that she could not resist the challenge.

6. At the conclusion of the hearing, I indicated that I would be setting aside the judge's decision and I now give my reasons for doing so.

7. **Discussion and Conclusions**

8. I would state at the outset that the determination is wholly inadequate and littered with factual errors, grammatical mistakes and an absence of analysis of the oral and documentary evidence.

9. The most glaring error is the judge's failure to make any findings at all on the oral and documentary evidence of the appellant's three children as to the relationship between their parents. They were called specifically for this reason and although the judge notes that they gave evidence at length, the only reference to that evidence is

in respect of the issue of dependency between them and the appellant which is contained in the following sentence at the conclusion of paragraph 19: *"I find in the present case there is, or ever was any (sic), no such dependency"*. Not only does the sentence itself make no grammatical sense but it is completely unreasoned and contains no analysis whatsoever of the relevance of the evidence to the main issue; the genuineness of the relationship between the appellant and his wife. On that basis alone, the decision is unsustainable.

10. There are, however, more errors. The findings of the judge as to credibility of the appellant and his wife are contradictory. At paragraph 13 the judge accepts the evidence of the wife as to a previous issue of domestic violence. At paragraph 17 he appears to rely on the decision of a previous Tribunal that the wife had never experienced domestic violence and concludes that she is not a witness of truth. At paragraph 13 the judge finds that the appellant had lied about not having ill-treated his wife, but this is perverse if the wife's claim to have been ill-treated is accepted. Further it cannot be that both witnesses were found to have lied because one said there had been violence and another said there had not clearly. Clearly it cannot then be found that neither has told the truth.
11. The judge has also failed to assess the supporting letters as to the relationship contained in the bundle.
12. Further, when assessing article 8 the judge has applied the wrong test and failed to appreciate that the burden shifts on to the respondent when family/private life is established (at 18). He appears further to apply the test relevant to asylum cases when assessing article 8 (at 25) and in finding that there was no evidence that the appellant had undertaken any parental responsibilities, he failed entirely to consider the evidence from the children and the appellant's daughter's school.
13. Finally, the judge failed to assess whether it would be reasonable to expect the appellant's wife and their three children, all being British citizens, to leave the UK and relocate to Pakistan with the appellant.
14. The errors contained in this determination are so many and so serious that the only possible outcome is to set aside the decision in its entirety. It is wholly unsustainable.
15. **Decision**

16. The First-tier Tribunal made errors of law. The decision is set aside. It shall be remade by another judge of the First-tier Tribunal at a date to be arranged.

17. **Anonymity**

18. I have not been asked to make an anonymity order and see no reason to do so.

Signed

A handwritten signature in black ink, appearing to read "R. Keir". The signature is written in a cursive style with a small dot at the end.

Upper Tribunal Judge

Date: 1 October 2018