



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

Appeal Number: HU/09511/2015

THE IMMIGRATION ACTS

Heard at Field House

On 15 December 2017

Prepared 15 December 2017

Decision & Reasons

Promulgated

On 26 January 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

ECO- NEW DHELI

and

**MR SURAJ KUMAR GURUNG
(ANONYMITY DIRECTION NOT MADE)**

Appellant

Respondent

Representation:

For the Appellant: Mr S Walker, Senior Home Office Presenting Officer

For the Respondent: Mr A Alexander, counsel instructed by Kent Immigration & Visa Advice

DECISION AND REASONS

1. In this decision the Appellant is referred to as the ECO and the Respondent is referred to as the Claimant.
2. The Claimant, a national of Nepal, appealed against an ECO's refusal of leave to enter dated 21 September 2015. The appeal was allowed by

First-tier Tribunal Judge Malcolm on 3 February 2017 (the Judge). Permission to appeal was given to the ECO on 19 October 2017 and the Claimant made a Rule 24 response which was served on 17 November 2017.

3. The ECO's challenge is founded upon the view that the judge had not made a proper analysis of the family life ties and relationship between the Claimant and family in the United Kingdom. The grounds were settled by a very experienced officer and to some extent the criticisms seem unrelated to the actual decision: I do not exclude the possibility that the officer did not have a full set of correct papers. Be that as it may, Mr Walker quite properly accepts that the reasoning of the Judge does address relevant case law.
4. The grounds do not challenge the findings of fact which the Judge made. It is fairly said that the Judge made findings of fact which any reasonable Tribunal considering those same evidence would have found engaged Article 8 and therefore the appeal succeeded. It was clear also that the Judge did address the issue of family ties and the relationship between the Appellant and his family in the UK.
5. For those reasons therefore, whilst understanding the general criticism that the ECO was making, albeit it may have been misplaced as a fact, I do not find that there is demonstrated any error of law which is material made by the Original Tribunal's decision. The Original Tribunal's decision stands.

NOTICE OF DECISION

6. The appeal is dismissed.
7. No anonymity direction is made.

Signed

Date 19 January 2018

Deputy Upper Tribunal Judge Davey