



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/32820/2015

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Liverpool
On 16 January 2018**

**Decision & Reasons
Promulgated
On 24 January 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

MR TABISH HASSAN QURESHI

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr. Harrison, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Pakistan, born on 19.8.89. He appealed against a decision by the Respondent dated 30.9.15 refusing to grant him permanent residence in the UK. He appealed to the First tier Tribunal and his appeal was heard on 17.11.16. In a decision promulgated on 13 January 2017, First tier Tribunal Judge Thorne dismissed his appeal, on the basis that the Appellant had not

proved that he met the requirements of regulation 10(5) of the Immigration (EEA) Regulations 2006.

2. The Appellant sought permission to appeal to the Upper Tribunal, which was refused by First tier Tribunal Judge Scott-Baker, in a decision dated 31.9.17. Upon renewal to the Upper Tribunal, in a decision dated 4.10.17, Upper Tribunal Judge Gill found as follows:

“The renewed grounds contend that it is open to the respondent to have obtained his ex-wife’s employment history from HMRC. However, it is wholly unarguable that the respondent had any obligation to do so.

Judge of the First-tier Tribunal Thorne was unarguably entitled to find that the appellant had not established that his ex-wife was exercising treaty rights as at the date of his divorce from his wife.

Given that the appellant had not established that his ex-wife was exercising Treaty rights as at the date of divorce, the outcome of the appeal before Judge Thorne could not arguably have been any different, on any legitimate view, whatever errors he may have made in relation to the remainder of his findings, including his finding on the issue of domestic violence. In saying this, I should say that I am aware of the fact that Judge of the First-tier Tribunal Scott-Baker considered that Judge Thorne may have made some errors of law.

There is no arguably material error of law in the decision of Judge Thorne.”

3. However, in clear error, given the terms of Judge Gill’s decision, permission to appeal was granted to the Upper Tribunal.

Hearing

4. At the hearing before me, Mr Harrison submitted that the grant of permission to appeal had clearly made in error. I agree. The Appellant attended without a representative so I explained that I had no jurisdiction to hear his appeal because permission to appeal had been granted in error and that his remedy was to make a fresh application.

Decision

5. There is no material error of law in the decision of First tier Tribunal Judge Thorne and that decision is upheld.

Rebecca Chapman

Deputy Upper Tribunal Judge Chapman

23 January 2018