



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/03445/2018

THE IMMIGRATION ACTS

Heard at Field House  
On 14<sup>th</sup> September 2018

Decision & Reasons Promulgated  
On 24 September 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

[M H]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr S Karim (instructed by M A Consultants)

For the Respondent: Mr I Jarvis (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

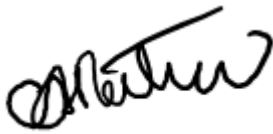
1. This is an appeal to the Upper Tribunal by the Appellant in relation to a Decision and Reasons of Judge Oliver of the First-tier Tribunal promulgated on 5<sup>th</sup> June 2018. The application, the subject of the original appeal, was an asylum application by a 39-year-old Appellant from Bangladesh.
2. At the hearing before the Judge the asylum claim was not pursued; only human rights and in particular the fact that the Appellant had been in the United Kingdom for more than twenty years. Thus, the issue under appeal fell within paragraph 276ADE of the Immigration Rules.

3. The Judge made findings in his determination that the Appellant had indeed been in the United Kingdom for a continuous period of twenty years. However, what the Judge then did was misdirect himself as to the necessity to consider whether there were very significant obstacles to the Appellant's integration into Bangladesh. That requirement is not contained within paragraph 276ADE(iii) and therefore having found the Appellant had been in the United Kingdom for twenty years what the Judge ought to have done was stop at that point and to allow the appeal.
4. The parties in front of me agreed that that is an error of law and furthermore also agree that the appropriate thing for me to do is to set aside the Decision and to redecide it by allowing the appeal. I do so on the basis of the case of TZ (Pakistan) and PG (India) [2018] EWCA Civ 1109 which is authority for finding that if the Immigration Rules are met, that is dispositive of a human rights appeal where Article 8 is engaged. Clearly it is engaged here because paragraph 276ADE is the Rule in relation to private life and on that basis I set aside the original First-tier Tribunal's determination and in redeciding it I allow the appeal.

**Notice of Decision**

The appeal is allowed on Human Rights (Article 8) grounds.

No anonymity direction is made.



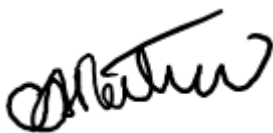
Signed

Date 20<sup>th</sup> September 2018

Upper Tribunal Judge Martin

**TO THE RESPONDENT**  
**FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award because the application, the subject of the appeal was a protection claim which the Appellant abandoned.



Signed

Date 20<sup>th</sup> September 2018

Upper Tribunal Judge Martin