Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/00160/2019

THE IMMIGRATION ACTS

Heard at Field House	**Decision and Reasons Promulgated**
On 18th June 2019	**On 05 July 2019**

Before

UPPER TRIBUNAL JUDGE RIMINGTON

Between

Jagit Singh
(Anonymity Direction Not Made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr I Hussain, instructed by Syeds Law Office.
For the Respondent: Mr C Avery, Home Office Presenting Officer.

DECISION AND REASONS

1. The appellant seeks, with permission, to challenge the determination of the First Tier Tribunal, promulgated on 25th March 2019, which dismissed the appellant's appeal against the refusal of his human rights claim (Article 8 of the European Convention on Human Rights).

2. The grounds of challenge dated 5th April 2019 to the determination of the First-tier Tribunal asserted

(i) the hearing on 11th March 2019 was not conducted fairly. The court was invited to consider the witness statement of the applicant's partner made on 4th April 2019 because the current representatives had only recently been instructed. It was asserted that the judge interrupted the proceedings several times during the questioning and during submissions.

(ii) the comment of the judge at paragraph 41 stated *'in addition I note that the appellant spoke English with a fairly strong accent that is plainly one from outside of the United Kingdom. That, if nothing else, should have at the very least raised questions about his country of birth and then questions about how he had settled in the United Kingdom'*. The appellant gave evidence without an interpreter in English. There was no issue with regard his English. The comment was controversial if not objectionable. *Alubankudi (Appearance of bias)* [2015] 00542 (IAC) emphasised that judges must be alert to the sensitivities and perceptions of others, particularly in a multi-cultural society.

(iii) The judge erred at paragraph 47 in stating that Article 8 was not engaged but there was a low threshold for such engagement and while the judge could find that the relationship did not meet the definition of a partner he erred in stating that Article 8 was not engaged at all.

(iv) In relation to private life, the appellant had been present in the UK for 17 years and 7 months at the date of application meaning that he was present in excess of 18 years at the date of the hearing. The judge took a 'balance sheet' approach and noted points in the appellant's favour but simply missed the 'tolerent (sic) [tolerated] presence' of the appellant which would also reduce the public interest in removal. The Secretary of State had not removed the appellant and that was a factor to be considered, *R (Agyarko) v Secretary of State* [2017] UKSC 11. The factor of 'tolerent presence' (sic) should have been a factor in the appellant's favour *EB (Kosovo) v Secretary of State* [2008] UKHL 41. The judge erred in the weight he gave to the negative factor of the appellant's precarious status as opposed to the reduction of the public interest owing to the tolerance of the Secretary of State to his presence.

3. Permission to appeal was granted by First-tier Tribunal Judge Simpson on all grounds. There was, however, no reason given as to why permission was granted.

4. Following the hearing a statement of Dr Rebecca Suri dated 4th April 2019 was submitted. She outlined that the judge was very aggressive towards their representative and 'kept on interrupting'. She added that when she was being questioned the judge would stop the representative halfway and start asking the purpose of the question as if running out of patience. The judge also stated that the representative was answering questions on our behalf instead of letting the witnesses speak and it was a hostile situation.

5. Dr Suri believed that the questioning led the judge to record the evidence incorrectly. For example, at paragraph 2 the judge 'says that the appellant claimed to be running a business'. Dr Suri stated, 'no such claim was made'. It also stated that the relationship was for 18 months when in fact it was for 21 months. The witness stated that she told the judge she did not ask about the appellant's immigration status until sometime after the relationship started but the judge found it not credible that Dr Suri did not ask before that. She stated that it was difficult to know how a fair judge could state that she should have known about his immigration status due to his accent. She had British citizen patients who could not speak a word of English. Paragraph 42 was contrary to what was said at the hearing.

6. She added, it was not compulsively necessary to inform the council that the partner comes to live at times. At paragraph 42 there was nothing odd or vague about what was said in relation to the council tax. The judge was more keen to show how he expected them to live.

7. At paragraph 47 the judge effectively called her a liar because he found that there was no relationship and that they were not living together. She was not trying to fake a relationship and that was an insult to both her and the profession.

The Hearing

8. At the hearing before me Mr Hussein confirmed that the legal representatives had changed and that he had not represented the appellant before the First-tier Tribunal. There was an assertion of bias and the judge had not approached the hearing with an open mind.

9. It was accepted that the appellant was not living on a permanent basis with Dr Suri and that she had not informed the council was not relevant. The judge had imposed how he thought a relationship should work. To find that there was no genuine relationship was an error of law. Further, the judge had failed to consider that the Secretary of State had not sought to remove the appellant and that should have reduced the weight to be given to the public interest. Mr Hussein confirmed that the appellant was not excluded on suitability grounds.

10. The Secretary of State's position was that the relationship had not endured for 2 years rather than it was not genuine. There was no statement from counsel who had attended the First-tier Tribunal hearing. Mr Avery submitted that to succeed a statement from the previous solicitors or counsel was required and there was none. Paragraph 41 was possibly an unfortunate statement but overall it was not material. The point was how had the appellant's immigration status not arisen before 2017? It was open to the judge to conclude there was no relationship in terms of an article 8 relationship. There was a lack of documentary evidence and it was legitimate to look for that. On the evidence before him, the judge's conclusions were open to him. The appellant 's position was precarious. He had not lived in the UK for 20 years but just over 17 years.

The approach of failure to remove him was not going to weigh heavily against the public interest

Analysis

11. For the purposes of this appeal it is important to set out the definition of partner under Appendix FM

> 'GEN.1.2. For the purposes of this Appendix "partner" means-
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> (i) the applicant's spouse;
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> (ii) the applicant's civil partner;
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> (iii) the applicant's fiancé(e) or proposed civil partner; or
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> (iv) a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application, unless a different meaning of partner applies elsewhere in this Appendix'.

12. The judge noted at the outset of his analysis that the Immigration Rules could not be met under Appendix FM. Even in the witness statement Dr Suri acknowledged that the said relationship had not existed for two years. The judge found at [38] that the appellant's case at tis highest was that they had been living together for 24 months at the date of the hearing. As the judge also noted the appellant could not be classified as a fiancée. This is because Appendix FM contains the following provision.

> 'E-LTRP.1.12. The applicant's partner cannot be the applicant's fiancé(e) or proposed civil partner, unless the applicant was granted entry clearance as that person's fiancé(e) or proposed civil partner.

13. Thus, under the rules the appellant could not succeed as a partner or as a fiancée. The immigration rules set out the position of the Secretary of State with regards Article 8 and must be taken into account by the judge when making an assessment under Article 8, and which was indeed undertaken in a more wide-ranging assessment.

14. Subsequent to the determination of the First-tier Tribunal being filed, Dr Suri submitted a witness statement with the grounds of appeal and on which Mr Hussein wished to rely. I have set out the specific complaints made in detail. There is no audio record of the hearing, but I have inspected the written Record of Proceedings.

15. The first question here is whether the decision of the First-tier Tribunal is vitiated by apparent bias and thus unsustainable. In particular paragraph 41 of the decision of the First-tier Tribunal was relied upon by Mr Hussein. At that paragraph the First-tier Tribunal judge found

> 'I take the view that it is not credible that Dr Suri did not ask about the appellant's immigration status from the outset of their relationship given

> in particular the feelings that she states developed at an early stage. It is reasonable to expect that details of his immigration status would have arisen in the normal course of the finding out about a potential husband's background. It is not claimed he had lied to her. She states that issues relating to his immigration status did not occur to her. In addition, I note that the appellant spoke English with a fairly strong accent that is plainly one from outside of the United Kingdom. That, if nothing else, should have at the very least raised questions about his country of birth and then questions about how he had settled in the United Kingdom' [41].

16. Mr Sharma asserted that this displayed bias and the determination could not stand. He referred to the witness statement of Dr Suri and the comment made by the judge at paragraph 41 which I have set out above.

17. I have also considered the context in the light of the various authorities which have addressed the issue of bias and *Porter v Magill* [2001] UKHL 67, at [103] held

> "The question is whether the fair minded observer, having considered the facts, would conclude that there was a real possibility that the tribunal was bias."
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> In *Re Medicaments* [2001] 1 WLR 700, the Court of Appeal provided the following exposition of the task of the appellate, or review, court or tribunal:
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> > "The Court must first ascertain all the circumstances which have a bearing on the suggestion that the Judge was bias. It must then ask whether those circumstances would lead a fair minded and informed observer to conclude that there was a real possibility that the Tribunal was bias. The material circumstances will include any explanation given by the Judge under review as to his knowledge or appreciation of those circumstances."'

18. *Sivapatham (Appearance of Bias)* [2017] UKUT 00293 (IAC)

> "Indications of a closed judicial mind, a pre-determined outcome, engage the appearance of bias principle and are likely to render a hearing unfair.
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> Provisional or preliminary judicial views are permissible, provided that an open mind is maintained."

19. No complaint was made prior to the promulgation of the decision. At no point did the counsel instructed at the First-tier Tribunal hearing submit any statement making any reference to poor conduct on behalf of the judge and there is no evidence that any statement from previous counsel was requested. I observed no statement from the appellant making complaint of the conduct of proceedings.

20. The record of proceedings show that the appellant's representative asked a series of questions of the appellant, indeed over a third of the questions asked by both representatives, and it is generally accepted, although the Tribunal

may govern (within the parameters of the Tribunal Procedure (First-tier Tribunal (Immigration and Asylum Chamber) Rules 2014 ('the FtT Rules') its own procedure and there are no strict rules of evidence, that the signed witness statement will stand as evidence in chief for a witness. The appellant had submitted a witness statement dated 4th March 2019 which ran to 31 paragraphs. Dr Suri submitted a one-page letter dated 1st March 2019 and a two page witness statement, which included the statement 'I write this letter in support that you please consider Jag's application for indefinite stay in this country positively and favourably'. The witness statement commented on why she was not prepared to travel to India to marry.

21. The overriding objective under Rule 2 of the FtT Rules enjoins judges to conduct proceedings in accordance with the overriding objective and fairly and justly engaging the following criteria

> **2.-** (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
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> (2) Dealing with a case fairly and justly includes—
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> (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;
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> (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
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> (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
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> (d) using any special expertise of the Tribunal effectively; and
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> (e) avoiding delay, so far as compatible with proper consideration of the issues.

22. Questions may be asked for clarification and expansion but it is evident that the appellant was asked in detail about matters which should have been included in his witness statement, such as his ties to India, his job prospects and his family in India and the impact of his said partner as to why he could not return to India and make an Entry Clearance application.

23. It is clear however, that the judge also permitted expansion on Dr Suri's witness statement by the appellant's representative and that he repeated information which was in her witness statement as to why she was 'not prepared to travel to India in order to marry' her fiancée and explored information which should have been in the statement. Although that is not a particular criticism of the representative and one not made by the judge, it is noteworthy that the judge thus permitted considerable examination in chief, which included expansion of the evidence which departed from the statements for both the witnesses. The judge also, and further, permitted re-examination

of the appellant by his representative. At the close of re-examination there is a note to the effect that there was further cross examination because the appellant's representative re-examination (questions) had been 'beyond the scope of re-exam'.

24. Nothing in the record of proceedings includes any reference or record to objections taken by either representative to any interruptions by the judge or any objection to the conduct of the proceedings generally. I also note that Dr Suri was recorded, as is proper, to have stepped out of the court until the appellant had concluded his evidence and this would have taken some time, when comparing the notes taken in relation to the appellant's and her oral evidence.

25. Dr Suri also commented that the nature of the conduct of the proceedings led the judge to record the evidence incorrectly. For example, at paragraph 2 of the determination she states that the judge 'says that the appellant claimed to be running a business'. Dr Suri confirmed 'no such claim was made'.

26. In the application, which was part of the bundle submitted by the appellant's representatives exactly that claim was made in the solicitors' covering letter with the application. I can understand that Dr Suri will not be aware of all the information placed before the judge and, further, that she was not in the court room, as was proper, when the appellant was being questioned and thus she would not be aware of what was said by the appellant to found the observations by the judge in paragraph 42. As set out in *Porter v McGill* the fair-minded observer must be informed and the court must first ascertain all the circumstances. The substance of the complaint was founded by Dr Suri who was either not party to the whole of the oral proceedings or not aware, and why should she be, of the totality of the documentation submitted on behalf of the appellant.

27. It is important to note that the judge, (and judges often deal with long lists of cases), must comply with the overriding objective to avoid delay and conduct the proceedings proportionately and fairly.

28. I turn to paragraph 41 which commented on the appellant's accent.

> "*Alubankudi (Appearance of bias)* [2015] UKUT 00542 (IAC) held at the second paragraph of the headnote.
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> > 'The interface between the judiciary and society is of greater importance nowadays than it has ever been. Judges must have their antennae tuned to the immediate and wider audiences, alert to the sensitivities and perceptions of others, particularly in a multi-cultural society'"

29. It is important to identify at this point that the reasoning given at [41] and throughout by the judge was in stages. As Mr Avery contended it would have been most surprising if the question of status had not been raised in the

relationship and that must be the case particularly if the appellant and Dr Suri were engaged because it would lead to the subject of where they were going to settle.

30. The findings made by the judge including the following

(i) it was clear that the Immigration Rules could not be met as at the date of the application on the basis of the appellant's family life with Dr Suri. Under the provisions of paragraph GEN.1.2. of Appendix FM she [Dr Suri] did not qualify as his partner. The appellant could not comply with the Immigration Rules.

(ii) At its highest the appellant's case was that he had been living with Dr Suri for two and a half years as at the date of the hearing.

(iii) There were inconsistencies in the evidence and it was for the appellant to establish the facts about the relationship

(iv) The appellant resiled from his evidence that he lived with Dr Suri for most of the time by saying that he lived with her for half of the time (Dr Suri gave oral evidence that it was 4-5 days every week [25]

(v) The reasons given for not living with her differed from those given by Dr Suri (she did not state that it was because her parents would not allow it)

(vi) The address on the application form was that of the brother and it was not credible that he would put his brother's address if he were living with her.

(vii) Dr Suri's letter made no mention of any engagement and there was minimal documentary evidence in support

(viii) Dr Suri did not know about the appellant's parents' immigration status.

(ix) There was minimal documentary evidence to support the relationship

(x) The letters [dated 2019] from family and friends including the appellant's brother, sister and brother in law are all silent on the issue of the relationship.

31. It was thus open to the judge to find that the evidence did not support the contention of a close relationship.

32. In the context of the findings of the judge overall, it is not apparent that there was bias. The judge specifically prefaced his statement at [41] that 'it was reasonable to expect that details of his immigration status would have arisen in the normal course of finding out about a potential husband's background'. There is nothing in that which is objectionable and if there is a closeness and a desire to marry it is the subject of natural discussion in any relationship, particularly as the location of the home would need to be decided. That is the context in which the finding of the judge was made. The judge proceeded to state 'in addition, I note that the appellant spoke English with a fairly strong accent' and this should have prompted the thought that he did not have

immigration status'. Whilst that may not necessarily be logical it is a comment couched within other cogent reasoning. There is no other suggestion that the judge was in any way biased against immigration or that he purported to draw on specialised knowledge for the assessment the evidence (and without putting the point to the parties) contrary to *MD (Judge's knowledge, standard of English)* [2009] UKIAT 13.

33. The finding at [41] reflects the judge's view of the nature of the relationship and it was open to him to question the account given to him as indeed is his role when assessing the evidence. The comments are couched in the assessment of the context of the feelings that the witness stated that she had for the appellant. In her witness statement the witness stated that they were 'inseparable'.

34. I do not find that a fair minded and informed observer, that is someone who is neither complacent nor unduly sensitive would find on the evidence that the judge approached the matter with a closed mind. I have read the decision as a whole and conclude that the reasoning is cogent and essentially based on an insufficiency of evidence (notably the letters from the appellant's relatives), and an inconsistency in evidence provided.

35. The question of the appellant's status would have naturally be raised and it was incumbent on the appellant to be frank with his close friends as to his status and particularly if he intended a more permanent and intimate relationship.

36. The comment at [43] in relation to council tax is not axiomatic to the findings. There was no evidence before the judge from the council, to the effect that Dr Suri was not living alone at the property or rather that the appellant was listed at the property and the judge's comment was focussed on the vague nature of the explanation for that information not being conveyed to the council. In that framing, the judge also found at [44] that albeit the appellant had mentioned his relationship in the application, when asked in his application form where he lived, he had given his brother's address. This form advises that the Secretary of State is to be advised immediately if this changes. The correspondence address was again different and not the witness' address. None of this information considered in the round led the judge to believe that the relationship was as secure and permanent as the appellant had asserted.

37. In the light of the judge's findings, which I have cited above, it was open to him to find that the asserted intimate relationship was not an Article 8 protected relationship. The judge did not find there was no relationship but that for the purposes of Article 8, having found the immigration rules did not apply, and on his own assessment the relationship the evidence was deficient, the relationship was not such that attracted the protection of Article 8 on *family* life grounds. Specifically, at [45] the judge identified that the letters of support from family and friends were silent on the issue of the engagement. The

criticism that the appellant's parents' immigration status remained unknown reflects the lack of information passed to the appellant's said fiancée.

38. There is a distinction between Article 8 *family* life and *private* life which can encompass relationships. On the evidence as provided it was open to the judge to find that, at the date of the hearing, he was unable to find an Article 8 protected right in terms of family life. That extended to the appellant's relationship with his own family, and in line with *Kugathas v Secretary of State for the Home Department* [2003] EWCA Civ 31. Although the judge found that the said romantic relationship lacked the quality, stability and nature for family life, he did find an Article 8 protected *private* life and this included the relationship with Dr Suri.

39. Therefore, contrary to the grounds the judge did consider Article 8 private life to be engaged because he proceeded to a full proportionality assessment finding that the appellant could not comply with Appendix FM or paragraph 276ADE. The appellant had only lived in the UK for 17 years, as at the date of application, and there were no significant obstacles to his return to India where he had the necessary skills to find work. The judge addressed the issue of the mental health of the appellant and the assertion of earlier poor immigration advice and found there was little by way of correspondence to evidence complaint. Overall the appellant knew that he was in the country unlawfully and that his immigration status had throughout been precarious. Having factored in Section 117 of the Nationality, Immigration and Asylum Act 2002 and adopted a balance sheet approach the judge's approach was lawful and he was entitled to find the decision of the Secretary of State to be proportionate, bearing in mind the following.

40. With regard the last ground and the 'toleration' by the Secretary of State of the appellant's presence, the judge did not accept that the appellant was unaware that his immigration presence had been decided. This was not specifically included or set out in the grounds of appeal to the First-tier Tribunal and there was merely a reference made in submissions that it was the 'HO own fault' not to 'remove him in 2004'.

41. It is necessary to read the reference to protracted delay in removal on the part of the Secretary of State, in the judgment of *R (Agyarko)* [2017] UKSC 11 in context.

42. At paragraph 52 Lord Reed stated as follows

> "51. … If, on the other hand, an applicant - even if residing in the UK unlawfully - was otherwise certain to be granted leave to enter, at least if an application were made from outside the UK, then there might be no public interest in his or her removal. The point is illustrated by the decision in *Chikwamba v Secretary of State for the Home Department*.
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> 52. It is also necessary to bear in mind that the cogency of the public interest in the removal of a person living in the UK unlawfully is liable to

> diminish - or, looking at the matter from the opposite perspective, the weight to be given to precarious family life is liable to increase - if there is a protracted delay in the enforcement of immigration control. This point was made by Lord Bingham and Lord Brown of Eaton-under-Heywood in *EB (Kosovo) v Secretary of State for the Home Department* [2008] UKHL 41; [2009] AC 1159, paras 15 and 37. It is also illustrated by the judgment of the European court in *Jeunesse.*
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> 53. Finally, in relation to this matter, the reference in the instruction to "full knowledge that their stay here is unlawful or precarious" is also consistent with the case law of the European court, which refers to the persons concerned being aware that the persistence of family life in the host state would be precarious from the outset (as in *Jeunesse*, para 108). One can, for example, envisage circumstances in which people might be under a reasonable misapprehension as to their ability to maintain a family life in the UK, and in which a less stringent approach might therefore be appropriate."

43. It is important to realise first, that this relates to family life and the judge found no family life in the United Kingdom. Secondly the judge effectively applied *Agyarko* when considering compelling circumstances or rather whether there would be unjustifiably harsh consequences on removal. The courts have repeatedly acknowledged that a state has the right to control its borders and as explained in *Agyarko* it is only in exceptional circumstances, which are not present here, that removal will constitute a violation of Article 8:

> "54. As explained in para 49 above, the European court has said that, in cases concerned with precarious family life, it is "likely" only to be in exceptional circumstances that the removal of the non-national family member will constitute a violation of article 8. That reflects the weight attached to the contracting states' right to control their borders, as an attribute of their sovereignty, and the limited weight which is generally attached to family life established in the full knowledge that its continuation in the contracting state is unlawful or precarious. The court has repeatedly acknowledged that "a state is entitled, as a matter of well-established international law, and subject to its treaty obligations, to control the entry of non-nationals into its territory and their residence there" (Jeunesse, para 100). As the court has made clear, the Convention is not intended to undermine that right by enabling non-nationals to evade immigration control by establishing a family life while present in the host state unlawfully or temporarily, and then presenting it with a fait accompli. On the contrary, "where confronted with a fait accompli the removal of the non-national family member by the authorities would be incompatible with article 8 only in exceptional circumstances" (Jeunesse, para 114).
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> 55. That statement reflects the strength of the claim which will normally be required, if the contracting state's interest in immigration control is to be outweighed."

44. The question of delay was addressed by Lord Bingham again largely in relation to relationships being formed, in *EB Kosovo* [2008] UKHL 41 but also in relation

to private life for example by the delay permitting the strengthening and development of closer personal ties and further it was held that

> "15. Delay may be relevant in a second, less obvious, way. An immigrant without leave to enter or remain is in a very precarious situation, liable to be removed at any time. Any relationship into which such an applicant enters is likely to be, initially, tentative, being entered into under the shadow of severance by administrative order. … A relationship so entered into may well be imbued with a sense of impermanence. But if months pass without a decision to remove being made, and months become years, and year succeeds year, it is to be expected that this sense of impermanence will fade and the expectation will grow that if the authorities had intended to remove the applicant they would have taken steps to do so. This result depends on no legal doctrine but on an understanding of how, in some cases, minds may work, and it may affect the proportionality of removal.
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> 16. Delay may be relevant, thirdly, in reducing the weight otherwise to be accorded to the requirements of firm and fair immigration control, if the delay is shown to be the result of a dysfunctional system which yields unpredictable, inconsistent and unfair outcomes. In the present case the appellant's cousin, who entered the country and applied for asylum at the same time and whose position is not said to be materially different, was granted exceptional leave to remain, during the two-year period which it took the respondent to correct its erroneous decision to refuse the appellant's application on grounds of non-compliance. In the case of *JL (Sierra Leone)*, heard by the Court of Appeal at the same time as the present case, there was a somewhat similar pattern of facts. JL escaped from Sierra Leone with her half-brother in 1999 and claimed asylum. In 2000 her claim was refused on grounds of non-compliance. As in the appellant's case this decision was erroneous, as the respondent recognised eighteen months later. In February 2006 the half-brother was granted humanitarian protection. She was not. A system so operating cannot be said to be "predictable, consistent and fair as between one applicant and another" or as yielding "consistency of treatment between one aspiring immigrant and another". To the extent that this is shown to be so, it may have a bearing on the proportionality of removal, or of requiring an applicant to apply from out of country. As Carnwath LJ observed in *Akaeke v Secretary of State for the Home Department* [2005] EWCA Civ 947, [2005] INLR 575, para 25:
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> > "Once it is accepted that unreasonable delay on the part of the Secretary of State is capable of being a relevant factor, then the weight to be given to it in the particular case was a matter for the tribunal"

45. First, the judge did not accept that there was an Article 8 protected family life, not least through lack of compliance with the immigration rules but also on his own assessment of the relationship. Secondly when turning to private life he assessed the nature and strength of the private life in the form of friendships

and family ties, and found it outweighed by the need for immigration control. Thirdly there was no acceptance that the system was dysfunctional in that it had failed to inform the appellant of his status or that the system had yielded an inconsistent or unfair outcome.

46. The proportionality assessment was undertaken in a balanced manner, on the evidence, with the relevant factors properly weighed. I do not find the judge conducted the hearing in an unfair or biased manner or that his findings displayed a closed mind.

47. For the reasons given above, I find no arguable material error of law in the determination of the First-tier Tribunal which will stand.

Signed

Date 3rd July 2019

Helen Rimington

Upper Tribunal Judge Rimington