



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

Appeal Number: HU/01136/2019

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre

**Decision & Reasons
Promulgated**

On 24th July 2014

On 6th August 2019

Before

Upper Tribunal Judge Chalkley

Between

**M N
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Rashid Ahmed

For the Respondent: Mr Tan, a Senior Home Office Presenting Officer

REASONS FOR FINDING AN ERROR OF LAW

1. The appellant is a citizen of Pakistan who made application to the Secretary of State for leave to remain in the United Kingdom on the basis of his Article 8 rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms. The respondent refused to grant the appellant leave on 10th January 2019 and the appellant appealed to the First-tier Tribunal. His appeal was heard in Manchester on 16th April, 2019 by First-tier Tribunal Judge Mark Davies.

2. The judge concluded that there was no family life between the appellant and his daughter and then went on in the alternative to find that if he was wrong in that the decision of the respondent was proportionate. The determination was challenged on behalf of the appellant on the basis of the decisions in *Berrehab v the Netherlands* [1989] 11 EHRR 322 and *Gul v Switzerland* [1996] 22 EHRR 92.
3. It was agreed between the representatives who appeared before me today that the determination could not stand and must be set aside. I agree.
4. I set aside the determination of Immigration Judge Mark Davies and remit this appeal for hearing afresh by the First-tier Tribunal, given that effectively the appellant has been denied a fair hearing. Two hours should be allowed for the hearing and a Punjabi interpreter will be required.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Richard Chalkley
Upper Tribunal Judge Chalkley

Date 30 July 2019