



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

Appeal Number: HU/04112/2018
HU/04115/2018
HU/04119/2018

THE IMMIGRATION ACTS

**Heard at North Shields
On 22 March 2019**

**Decision & Reasons
Promulgated
On 26 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE J M HOLMES

Between

**Y. H.
H. Y.
F. Y.**

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Turner. Counsel, direct access

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

The Appellants, citizens of Pakistan were refused leave to remain on 25 January 2018. Their human rights appeals against that decision were heard, and dismissed, by First-tier Tribunal Judge Fisher, in a decision promulgated on 16 July 2018. The Appellants' applications for permission to appeal were granted by First-tier Tribunal Judge Scott Baker on 16 October 2018, on two limbs, that

the appeals should have been adjourned, and that the decision under appeal was flawed by reason of the Respondent's failure to follow his own policy. The Respondent opposed that grant by a Rule 24 response of 13 November 2018.

Before me, the Respondent's position was completely altered. Mr Diwnycz conceded that there was a material error of law in the approach taken to the appeals, because the decision under appeal could not be defended. The hearings had proceeded without the attendance of any presenting officer, and so the Judge was not made aware of the failure to follow policy. He was unable to withdraw the decision under appeal immediately, although his advice would be that this should now occur.

In the circumstances I remit the appeal for a fresh hearing by a judge other than First tier Tribunal Judge Fisher, at the North Shields Hearing Centre.

Notice of decision

1. The decision did involve the making of an error of law sufficient to require the decision to be set aside on all grounds, and reheard. Accordingly the appeal is remitted to the First Tier Tribunal for rehearing de novo.

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

Unless and until a Tribunal or court directs otherwise, the Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them. This direction applies both to the Appellants and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 22 March 2019

Deputy Upper Tribunal Judge J M Holmes