



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

Appeal Numbers: HU/11338/2017
HU/11326/2017, HU/11329/2017
HU/11334/2017, HU/11335/2017

THE IMMIGRATION ACTS

Heard at Bradford

On 22 November 2018

**Decision & Reasons
Promulgated**

On 06 March 2019

Before

UPPER TRIBUNAL JUDGE LANE

Between

**TZ (FIRST APPELLANT)
MZ (SECOND APPELLANT)
AK (THIRD APPELLANT)
MS (FOURTH APPELLANT)
MBS (FIFTH APPELLANT)
(ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms Chaudhry, instructed by Marks and Marks Solicitors
For the Respondent: Mrs Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellants are citizens of Pakistan. The second and third appellants are husband and wife and the other appellants are their children. The

second and third appellants were born in Pakistan in 1980 and 1985 respectively. The fourth and fifth appellants were born in the United Kingdom in 2009 and 2013. The remaining appellant was born in 2015. Because of the significance in this appeal of the age and length of residence of the fifth appellant, I shall refer to him by the initials TZ. Both parties accept that, by the date of the hearing in the First-tier Tribunal TZ had been resident in the United Kingdom for more than seven years.

2. The appellants have applied to remain in the United Kingdom on human rights grounds. By decisions dated 15 September 2017, the Secretary of State had refused the applications. The appellants appealed to the First-tier Tribunal (Judge Cope) which, in a decision promulgated on 8 June 2018 dismissed the appeals. The appellants now appeal, with permission, to the Upper Tribunal.
3. I find that there is an error of law in the decision of the First-tier Tribunal. Although the First-tier Tribunal Judge cited the authority of *MA (Pakistan)* [2016] EWCA Civ 705 it is not clear that he has followed it. The length of residence of TZ, in particular, required a detailed consideration but the judge's analysis [48-50] is silent as to the best interest of TZ and as to any private life ties within the United Kingdom which he may have formed. Regarding *MA (Pakistan)*, the judge does not appear to have followed the principles set out at [49]:

"Although this was not in fact a seven year case, on the wider construction of section 117B(6), the same principles would apply in such a case. However, the fact that the child has been in the UK for seven years would need to be given significant weight in the proportionality exercise for two related reasons: first, because of its relevance to determining the nature and strength of the child's best interests; and second, because it establishes as a starting point that leave should be granted unless there are powerful reasons to the contrary."
4. Miss Chaudhry who, appeared for the appellants before the Upper Tribunal, submitted that the problems with the appellants' immigration history which the judge discusses at [72-75] was not enough to amount to strong or powerful reasons justifying removal of TZ given that he is "qualifying child" for the purposes of Section 117 of the 2002 Act (as amended). Indeed, the judge's analysis ignores *MA (Pakistan)* and the length of residence of TZ other than recording it as a fact; he did not accord it any particular significance. I agree with Miss Chaudhry that that constitutes an error which leads me to set aside the First-tier Tribunal decision.
5. I proceeded to remake the decision. I agree with Miss Chaudhry that there are no particularly strong reasons in this case which would justify removal of TZ. I recognise that, given the length of residence, TZ has formed private life connections within the United Kingdom. Accordingly, the public interest does not require his removal. Both parties agree that the parents of TZ have a genuine and subsisting relationship with him.

Consequently, there is no public interest in their removal (see Section 117B(6) of the 2002 Act). As their minor dependants, the remaining appellants could only have their best interests met if they remain in the care and control of their parents. In consequence, I allow the appeals.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated 8 June 2018 is set aside. I remade the decision. The appeals of the appellants are allowed on human rights grounds (Article 8 ECHR).

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 him or any member of their 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.

Signed

Date 2 February 2019

Upper Tribunal Judge Lane