



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

HU/12351/2016

THE IMMIGRATION ACTS

Heard at Glasgow  
On 28 November 2019

Decision & Reasons Promulgated  
**On 3 December 2019**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**MUHAMMAD ASHRAF PRINCE**

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mr H Ndubuisi, of Drummond Miller, Solicitors  
For the Respondent: Mr M Clark, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Pakistan. His date of birth is recorded as 1 January 1980. On 25 April 2016 the respondent refused his application for further leave as the spouse of a settled person, for use of deceit in an English language test (the obtaining of a TOEIC certificate).
2. FtT Judge P A Grant-Hutchison dismissed the appellant's appeal by a decision promulgated on 13 December 2017.
3. The FtT and the UT refused permission to appeal.

4. The appellant petitioned the Court of Session to set aside the UT's refusal of permission. In a joint minute, parties agreed that it should be set aside, because it was arguable that the judge "erred in law in that he failed to carry out a fact specific assessment regarding the [appellant's] evidence of taking the test."
5. On 25 October 2019, the Vice President of the UT granted permission, in light of the interlocutor of the Court.
6. Expanding on the ground, and on a written note of argument, Mr Ndubuisi said that although the decision summarised the oral evidence of the appellant and his wife at [8 -9] it included "no assessment, evaluation, analysis, weighing up of, or conclusion on" his or her credibility.
7. Mr Clark said that the respondent's evidence was not merely generic, it went to the specific test results of the appellant, and that it could be inferred from the rehearsal of the oral evidence that the judge had taken everything into account.
8. I indicated that the decision fell to be set aside.
9. It may certainly be taken from the decision that the judge understood what the oral evidence was, and that he rejected it; but despite the best efforts of Mr Clark to divine some reasoning, there is nothing to explain the judge's negative evaluation of that evidence.
10. Following that finding, parties agreed that the outcome should be as follows.
11. The decision of the FtT is set aside, and stands only as a record of what was said at the hearing.
12. The nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing.
13. The member(s) of the FtT chosen to consider the case are not to include Judge Grant-Hutchison.
14. No anonymity direction has been requested or made.



28 November 2019  
UT Judge Macleman