



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

Appeal Number: HU/25357/2018

THE IMMIGRATION ACTS

Heard at Field House

**Decision and
Promulgated**

Reasons

On 30 October 2019

On 08 November 2019

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

**HAMID BELMOKHTAR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J. Bahja, Counsel, instructed by OTS Solicitors

For the Respondent: Ms S. Cunha, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 6 December 2018 to refuse a human rights claim.
2. First-tier Tribunal Judge Dean ("the judge") dismissed the appeal in a decision promulgated on 19 July 2019. The judge heard evidence from the appellant and made findings relating to that evidence at [7-18] of the decision. Although it seems that the judge may have been making findings in relation to the requirements contained in paragraph 276ADE(1) (iii), no specific reference was made to that paragraph. Nor were any clear reasons given to show that the judge had concluded that the evidence was insufficient to show that the appellant had been continuously resident in

the UK for a period of 22 years at the date of the hearing. The judge made no reference to paragraph 276ADE(1)(iii), insufficient reasons were given to explain the decision and/or his findings were unclear.

3. The judge then went on, it seems, to make an assessment of Article 8 outside the Immigration Rules. At [24] he noted that the appellant had spent the first 27 years of his life in Algeria. Mr Bahja rightly pointed out that an inference could be drawn from that finding that, given the appellant's age, the judge seemed to accept that he might have been living in the UK for a period of 22 years. The finding at [24] appears to conflict with the earlier findings made by the judge about the reliability of evidence produced by the appellant. In any event, I also note that in [24] the judge incorrectly directed himself to the test of whether there were 'insurmountable obstacles' to the appellant continuing his private life in Algeria, which is not the relevant test in a case of this kind.
4. At the hearing before the Upper Tribunal today, Ms Cunha accepted that the judge did not make any clear findings in relation to paragraph 276ADE(1)(iii) and that there were some difficulties with his findings at [24]. For this reason, she did not seek to defend the First-tier Tribunal decision. The parties agree that the decision involved the making of errors of law for the reasons I have outlined. There was also agreement that, given the lack of clarity in the judge's findings, the decision would need to be remade by way of a fresh hearing in the First-tier Tribunal.
5. For these reasons, I conclude that the First-tier Tribunal's decision involved the making of errors of law. The decision is set aside and will be remitted for a fresh hearing.

DECISION

The First-tier Tribunal decision involved the making of an error of law

The decision is set aside and will be remitted to the First-tier Tribunal for a fresh hearing

Signed 
Upper Tribunal Judge Canavan

Date 04 November 2019