



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

**Appeal Number: EA/00865/2021
UI-2021-001758**

THE IMMIGRATION ACTS

**Heard at Field House
On the 23 December 2022**

**Decision & Reasons Promulgated
On the 23 January 2023**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**NIMRA JABEEN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr R Ahmed, instructed by Dawn Solicitors

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan born on 7 July 1999. She appeals against the decision of First-tier Tribunal Judge Austin ('the judge'), promulgated on 16 July 2021, dismissing her appeal against the refusal of a family permit to enter the UK as an extended family member under the Immigration (EEA) Regulations 2016.

2. Permission to appeal was granted by First-tier Tribunal Judge Gibbs on 6 October 2021 for the following reasons:

“3. The grounds assert that documents submitted by the appellant on 10 July 2021 were not before the judge. Further, that the judge misdirected himself on the issue of dependency.

REASONS FOR DECISION

4. The grounds of appeal are arguable because whilst the judge accepts that there is evidence of financial support (paragraph 17) he concludes that he is “not satisfied that it shows financial dependence” without giving adequate reasons for this conclusion. Further, he makes numerous references to the long term viability of the financial support provided to the appellant which is not a requirement under Regulation 8 of the Immigration (European Economic Area) Regulations 2016.
5. The grounds of appeal disclose an arguable error of law. The grant of permission is not limited.”
3. Mr Tufan conceded that the judge erred in law as identified in the grounds of appeal. The documents submitted on 10 July 2021 were not considered in the decision. I find the judge may have come to a different conclusion had this evidence been before him. There was a procedural irregularity giving rise to an error of law.
4. I have decided in accordance with paragraph 7.2 of the Practice Statements of 25 September 2012 that the decision promulgated 16 July 2021 should be set aside and the appeal remitted to the First-tier Tribunal. None of the judge’s findings are preserved.

DIRECTIONS

- (1) The Tribunal is directed pursuant to section 12(3) of the Tribunals, Courts and Enforcement Act 2007 to reconsider the appeal at a hearing before a First-tier Tribunal Judge other than First-tier Tribunal Judge Austin.
- (2) I direct that the Appellant serve on the Respondent and the Tribunal any further evidence and submissions not later than 21 days before the hearing.
- (3) The matter is listed before a First-tier Tribunal judge at the first available date.

Notice of decision

Appeal allowed

J Frances

Signed

Date: 29 December 2022

Upper Tribunal Judge Frances