



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004014

First-tier Tribunal No: HU/59327/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 1st of May 2024

Before

UPPER TRIBUNAL JUDGE REEDS

Between

RUILIN HUANG

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Determined on the papers on 25 April 2024

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal (Judge Swinnerton “the FtTJ”) who, dismissed the appellant’s appeal in a decision promulgated on 12 August 2023.
2. The appellant appealed on the basis that further to Nwaigwe (adjournment: fairness) [2014] UKUT 00418 (IAC) and SH (Afghanistan) v SSHD [2011] EWCA Civ 1284, the judge’s decision to refuse an adjournment to permit the 4 witnesses to attend to give oral evidence as to the appellant’s 20 years continuous residence, was unfair and procedurally flawed resulting in the lack of a fair hearing. Permission was granted by Upper Tribunal Judge Rimmington on 2 November 2023.
3. The Secretary of State responded to the application in a Rule 24 response dated 9 November 2023 stating that she does not oppose the appeal for permission to appeal and invites the Tribunal to remit the appeal for a further oral hearing. It is therefore accepted that the FtTJ erred in law.
4. On 8 January 2024 directions were issued to the parties stating the following: “Having considered the grounds of appeal, the grant of permission and the Rule 24 response, the grounds have clear merit as conceded by the

respondent. I propose to set aside the decision of the First-tier Tribunal for error of law and remit the appeal for fresh consideration. Any representations to the contrary will be considered if received within 14 days of the date of these directions.”

5. Since those directions were sent to the parties on 8 January 2024 there has been no further reply or compliance with those directions as noted from the information contained on the CE File and therefore as neither party has dissented from the proposal, I set aside the decision of the First-tier Tribunal for error of law as identified in the grounds of appeal and the grant of permission and as recognised in the 24 response .I remit the appeal to the First-tier Tribunal for a hearing.

Notice of Decision:

The decision of the First-tier Tribunal involved the making of an error on a point of law; the decision of the FtTJ is set aside and the appeal is remitted to the First-tier Tribunal for a fresh hearing.

Upper Tribunal Judge Reeds

Upper Tribunal Judge Reeds

25 April 2024