



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/07266/2014

THE IMMIGRATION ACTS

Heard at Glasgow
on 2 September 2014

Determination promulgated
On 3 September 2014

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MUHAMMED BILAL SAEED

Respondent

For the Appellant: Ms N Loughran, of Loughran & Co., Solicitors
For the Respondent: Mr K Young, Senior Home Office Presenting Officer

No anonymity order requested or made

DETERMINATION AND REASONS

1. The parties are as described above, but are referred to in the rest of this determination as they were in the First-tier Tribunal.
2. The SSHD appeals against a determination by First-tier Tribunal Judge Handley, promulgated on 12 May 2014, allowing the appellant's appeal under Article 8 ECHR. The grounds correctly identify that the judge gave no reasons for considering this case outside the requirements of the Immigration Rules.
3. In course of submissions on remaking the decision, it became common ground that the terms of the Rules for leave to remain as a fiancé are satisfied, apart from the requirement to make such an application from abroad, and that the case is

truly one which turns on whether it is proportionate in all the circumstances to insist on that formality; on which the authority, even since the major amendments to the Rules on family and private life, is *Chikwamba v SSHD* [2008] Imm AR 700.

4. I think both representatives also accepted that the position in that light is finely balanced. There would be some delay and further expense but no great inconvenience to the appellant and his fiancée if he had to apply again from Pakistan; but there is nothing adverse in his immigration history, and no significant public interest to be served by keeping to the very letter of the Rules on this one point. I find that the balance falls in his favour.
5. The determination of the First-tier Tribunal is set aside; but the appellant's appeal, as brought to the First-tier Tribunal, is again **allowed**.

A handwritten signature in black ink, appearing to read 'Hugh Maclean'. The signature is written in a cursive, flowing style with a large loop at the end.

2 September 2014
Judge of the Upper Tribunal