



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

Appeal Number: IA/03677/2015

**THE IMMIGRATION ACTS**

**Heard at Centre City Tower,  
Birmingham  
On 20<sup>th</sup> November 2015**

**Decision & Reasons  
Promulgated  
On 7<sup>th</sup> December 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE FRENCH**

**Between**

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

Appellant

**and**

**AMARJIT KAUR**

(ANONYMITY ORDER NOT MADE)

Respondent

**Representation:**

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer  
For the Respondent: Mr R Rashid instructed by Bhogal & Co

**DECISION AND REASONS**

1. Mrs Kaur had been admitted to the United Kingdom on 16<sup>th</sup> July 2012 as the spouse of her Sponsor husband with a visa valid from 19<sup>th</sup> June 2012 until 19<sup>th</sup> September 2014. On 17<sup>th</sup> September 2014 she made an application for further leave to remain. Her application was refused by the Secretary of State on 8<sup>th</sup> January 2015, with reference to Appendix FM of the Immigration Rules and paragraph 276ADE of those Rules.
2. Mrs Kaur appealed and her appeal was heard before First-tier Tribunal Judge Ghani on 28<sup>th</sup> April 2015. In a brief decision promulgated on 3<sup>rd</sup> June

2015 the First-tier Tribunal Judge allowed her appeal on the basis that it was not in accordance with the law and would have to be reconsidered by the Secretary of State. The reasons for that decision were that Mrs Kaur had entered on the basis of the earlier Immigration Rules and her application should have been considered under those Rules bearing mind relevant transitional provisions.

3. The Secretary of State applied for permission to appeal against that decision, contending in the application that the decision maker had been entitled to take account of the provisions of Appendix FM and paragraph 276ADE of the Rules having regard to the judgment of the Court of Appeal in **Singh v SSHD [2015] EWCA Civ 74**. Permission to appeal was granted on that basis.
4. At the hearing before me Mr Mills said that having looked into the matter and in particular having viewed the notes of the Presenting Officer who had been at the original hearing he had noted that it had been agreed at that hearing that as entry clearance had been granted in June of 2012 transitional provisions applied and the application should have been considered under paragraph 287 of the Rules. Regrettably that concession had not been recited in the judge's decision but he accepted that the concession had been correctly made. He pointed out that he could understand why the original decision maker on behalf of the Secretary of State had decided the matter with reference to Appendix FM and paragraph 276ADE as the application appeared to have been made upon the wrong form but nonetheless the concession had been made and the judgment of the Court of Appeal in **Singh** was not in those circumstances relevant. He did not therefore seek to pursue the appeal.
5. In those circumstances I did not need to call upon Mr Rashid. I accept that both representatives at the original hearing had accepted that the transitional provisions applied and that the original decision made on behalf of the Secretary of State was not in accordance with the law as the Rules in their revised form had wrongly been applied. The appeal of the Secretary of State accordingly fails.

### **Decision**

There was no material error of law in the making of the decision of the First-tier Tribunal and that decision, which was that the appeal of Mrs Kaur be allowed as the original decision was not in accordance with the law, therefore stands.

There was no application for an anonymity order and none is made.

Signed

Date 30 November 2015

Deputy Upper Tribunal Judge French