



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

Appeal Number: OA/09125/2014

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On the 5th October 2015

Promulgated

On the 14th October

2015

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR TARIQ MAHMOOD
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr L Tarlow, Home Office Presenting Officer

For the Respondent: No Appearance

DECISION AND REASONS

1. This is an appeal by the Secretary of State against the decision of the First-tier Tribunal which allowed, erroneously they say, an appeal by Tariq Mahmood, who had applied for a visit visa for business purposes. That had been refused by an Entry Clearance Officer.
2. The Appellant's appeal was heard and considered on the papers by Judge Stanford sitting at Taylor House on the 12th February 2015. In a decision

promulgated on the 24th March the Judge purported to find that the requirements of paragraph 46G of the Immigration Rules were met, that the decision was not in accordance with the law or the applicable Immigration Rules and then at paragraph 25, having considered the human rights aspect of the case, found that no articles were engaged in that appeal. In the notice of the decision he allowed the appeal under the Immigration Rules and dismissed it on human rights grounds.

3. The Judge had overlooked the fact that the Appellant's rights of appeal were limited by the terms of the then section 84 of the 2002 Act and that it was limited to those mentioned in section 82(2)(c), under section 6 of the Human Rights Act 1998 and race discrimination grounds.
4. The first point that the Judge should have addressed is whether the Human Rights Act was engaged as the Appellant had claimed. If he had found that it was not then that was the end of the appeal because there was then no jurisdiction to consider whether the refusal was in breach of any of the grounds.
5. There was no suggestion that the Appellant has family in the UK and following the case of Kugathas article 8 and family life could not be engaged because there would be no dependency on anybody within the UK jurisdiction. The case of Patel [2013] UKSC 72 severely limits the application of article 8 in respect of private life in country and thus had a similar effect out of country and that will not have assisted the Appellant.
6. There is no breach of the right to a fair trial or hearing. The Appellant did have the opportunity to present his case and the finding made at paragraph 25 that no rights under any other articles were engaged in the appeal was the only finding that was open to the Judge.
7. That should have been the end of the decision and there was then nothing further for the Judge to consider and there was certainly no need for him to address the ability of the Appellant to meet paragraph 46G or any other paragraph of the Immigration Rules.
8. Accordingly I find that the decision of Judge Stanford contained a material error of law with regard to his jurisdiction to consider the appeal. He was wrong to allow the appeal under the Immigration Rules and I have set aside the decision. I remake the decision and substitute this finding that the refusal of the Appellant's application did not constitute a breach of any of the UK's international obligations under the European Convention on Human Rights. There was therefore no jurisdiction to consider the appeal further and the appeal is dismissed.

NOTICE OF DECISION

The decision of First-tier Tribunal Judge Stanford contained an error of law and is set aside. I remake the decision and dismiss the appeal of Tariq Mahmood.

No anonymity direction is made.

To The Respondent

I have dismissed the appeal of Tariq Mahmood and therefore there can be no fee award.

Signed

Date 13th October 2015

Deputy Upper Tribunal Judge Parkes