



IAC-AH-SAR-V1

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

Appeal Number: IA/12452/2014

THE IMMIGRATION ACTS

**Heard at City Centre Tower, Birmingham
On 15th February 2016**

**Decision & Reasons Promulgated
On 23rd March 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**FAIZA AKHTAR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Unrepresented
For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of Pakistan born on 10th September 1978. She first arrived in the UK on 7th April 2005 when she was given leave to enter as a student

until 9th March 2005, and thereafter successive grants of leave to remain in the same capacity until 31st March 2009. Thereafter the Appellant was granted successive periods of leave to remain as the dependent spouse of a Tier 1 (General) Migrant until 13th August 2013. The Appellant then applied for further leave to remain on the same basis. That application was refused for the reasons given in a Notice of Decision dated 12th February 2014. The Appellant appealed, and her appeal was heard by Judge of the First-tier Tribunal Crawford (the Judge) sitting at Stoke on 18th June 2014. He decided to dismiss the appeal under the Immigration Rules for the reasons given in a decision dated 19th June 2014. On 27th October 2015 I decided that that decision contained no error of law as regards paragraph 319E of the Statement of Changes in Immigration Rules HC 395. However, I decided that the Judge had erred in law by not considering the Appellant's human rights either under Appendix FM of HC 395 or under Article 8 ECHR. I set aside that part of the Judge's decision, and directed that the case be adjourned for that decision to be re-made. That is the matter which comes before me today.

Evidence

2. At the hearing, the Appellant appeared represented by her husband, the Sponsor, Zia Ullah. He had no legal representation, but confirmed that he was happy for the hearing to proceed nonetheless.
3. The evidence before Judge Crawford was supplemented by what the Sponsor told me at the hearing. None of that evidence was disputed by the Respondent. I therefore find that the Appellant married her husband, the Sponsor, sometime prior to 2008. Since then they have lived together as man and wife. Their marriage is genuine and subsisting. They have four children, namely [MrZ] born on [] 2007, [AH] born on [] 2009, [ASZ] born on [] 2011, and finally [MhZ] born on [] 2015.
4. The Appellant's husband was granted indefinite leave to remain in the UK on the basis of long residency on 25th November 2011. On 17th June 2014 he became a British citizen by naturalisation. He is a graduate in telecommunications engineering from Aston University, and is employed by the Royal Mail earning approximately £56,000 per annum.
5. The Appellant's three elder children have commenced their education in the UK. All the Appellant's children were born in the UK where they have lived for all of their lives. They have no experience of life in Pakistan.

Decision

6. I find that the Appellant satisfies the requirements of paragraph EX.1.(a) of Appendix FM of HC 395. The Appellant's youngest child [MhZ] is a British citizen having been born in the UK after her father had become a British citizen. There is no reason for me to believe that the Appellant does not have a genuine and subsisting parental relationship with that child. The child is under the age of 18 years and is resident in the UK. On the evidence before me, it would not be reasonable to expect that child to leave the UK. It would therefore be a breach of the Appellant's right to a family life

under the Immigration Rules to refuse her leave to remain in the UK. The appeal is therefore allowed.

Notice of Decision

I allow the appeal under the Immigration Rules.

Anonymity

I was not asked to make an anonymity order. I have considered whether to do so but find that in this case it is not necessary.

Signed

Date

Deputy Upper Tribunal Judge Renton

TO THE RESPONDENT
FEE AWARD

I have considered making a fee award. As the appeal has been allowed upon evidence which was not before the Respondent when the Appellant applied for leave to remain, I decide not to make any fee award.

Signed

Date

Deputy Upper Tribunal Judge Renton