



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

Appeal Numbers: EA/02591/2015
EA/02596/2015

THE IMMIGRATION ACTS

Heard at Field House

On 19th April 2017

**Decision & Reasons
Promulgated
On 4th May 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR GURPREET SINGH KALSI
MRS PARAMJEET MALKIT SEMBHI
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr N Bramble, Senior Home Office Presenting Officer
For the Respondent: Mr A Chohan, Counsel instructed by Magna Solicitors

DECISION AND REASONS

1. The claimants in this case are husband and wife and nationals from India (I shall continue to refer to them as the appellants) whose appeal was allowed on immigration grounds by First-tier Tribunal Judge Lloyd in a decision promulgated on 10th August 2016. The Secretary of State sought permission to appeal the judge's decision and set out grounds for doing

so. Permission was granted by First-tier Tribunal Judge Scott-Baker who pointed out that in addition the issue of jurisdiction would need to be considered pursuant to **Sala (EFMs: Right of Appeal) [2016] UKUT 411 (IAC)** where the Upper Tribunal found there is no statutory right of appeal against the decision of the Secretary of State not to grant a residence card to a person claiming to be an extended family member – which is the position here.

2. Before me Mr Bramble relied on his grounds and said that, given the **Sala** point, there had been no valid appeal before the First-tier Tribunal.
3. For the appellants, Mr Chohan relied on his Rule 24 Notice and pointed out that the judge's findings predated the promulgation of the decision in the **Sala** case; as such the judge was not bound by **Sala** which in any event was the subject of an appeal.
4. I reserved my decision.

Conclusions

5. I go straight to the **Sala** point in that it raises a jurisdictional issue. It is true, as Mr Chohan pointed out, that the decision in that case had not been promulgated at the time the judge issued his decision. **Sala** was promulgated on 19th August 2016, nine days after the decision of Judge Lloyd was promulgated. However, that is not the point. The question is what was the law at the material time, namely when Judge Lloyd made his decision. As at the date of that decision the principle set out in **Sala** applied.
6. That principle in **Sala** is quite clear – the Vice-President and Professor Grubb found that there is no statutory right of appeal against the decision of the Secretary of State not to grant a residence card to a person claiming to be an extended family member. That is exactly the position here. It follows that, according to the reasoning set out in **Sala** (whether it is being appealed or not), the appellants in this case do not have a statutory right of appeal. It is therefore necessary to set aside the decision of Judge Lloyd.

Notice of Decision

7. The appellants have no right of appeal. The First-tier Tribunal had no jurisdiction to hear the appeal. It erred in law in doing so.
8. I set aside the decision to allow the appeal and substitute a decision that there was not a valid appeal before the First-tier Tribunal.
9. No anonymity direction is made.

Signed

Date 24th April 2017

Deputy Upper Tribunal Judge J G Macdonald