



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

Appeal Number: HU/00691/2016

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 2<sup>nd</sup> November 2017**

**Decision &  
Promulgated**

**On 06<sup>th</sup> November 2017**

**Reasons**

**Before**

**RT HON LORD BOYD OF DUNCANSBY  
SITTING AS A JUDGE OF THE UPPER TRIBUNAL  
and  
UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**and**

**RAJA MUHAMMAD RAFI  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

Respondents

**Representation:**

For the Appellant: Mr P Duffy (Senior Home Office Presenting Officer)

For the Respondent: Mr J Gajjar (instructed by Law Lane Solicitors)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Secretary of State, with permission, in relation to a Decision of Judge Lucas in the First-tier Tribunal promulgated on 16<sup>th</sup> January 2017.

2. For the sake of continuity and clarity we shall continue to refer Mr Rafi as the Appellant and the Secretary of State as the Respondent in this judgment.
3. The Appellant is a national of Pakistan. He came to the UK in 2006 as a work permit holder with leave until January 2010. He applied for Indefinite Leave to Remain in 2011 which was refused. Following a finding on appeal that the decision was not in accordance with the law the Secretary of State reconsidered the application and refused it again. On appeal from that decision Judge Gurung-Thapa dismissed the appeal under the Rules but allowed it on Article 8 grounds on the basis of his private life. As a result he was granted 2 years discretionary leave to remain.
4. The Appellant then applied for Indefinite Leave to Remain on 16<sup>th</sup> September 2015 on the basis of 10 years lawful residence which was refused on 22<sup>nd</sup> December 2015. It was refused on the basis that the Appellant had not been in the UK for 20 years.
5. It was his appeal against that decision which came before Judge Lucas.
6. Judge Lucas set out the basis of the Appellant's claim and submissions between paragraphs 3 and 13 of the Decision and Reasons. His findings then commence at paragraph 14 and conclude at paragraph 21. The findings are very brief. Judge Lucas noted his previous successful appeal on the basis of his private life. He also notes that at the date of decision he had not been resident for 10 years. The Judge noted that he had no adverse immigration history and allowed the appeal on the basis that he was successful in 2013 and his private life had strengthened since then.
7. However, the Judge does not identify the nature of the private life and why interference is disproportionate. He does not address whether that private life can be established in Pakistan. He does not carry out any balancing exercise between the Appellant's rights and the public interest in the maintenance of immigration control and he does not address s.117 of the Nationality, Immigration and Asylum Act 2002 at all.
8. The law in relation to private life has changed since the 2013 decision.
9. The Secretary of State said that the Appellant could not meet paragraph 276ADE; that part of the Rules that deals with private life. The Judge makes no mention of this in his findings and there is no consideration of whether there would be very significant obstacles to the Appellant's integration into Pakistan.
10. Mr Gajjar argued that the error of law was not material given that the Appellant had been in the UK for 10 years. However that ignores the provisions of paragraph 276ADE.
11. The Decision and Reasons is so lacking in analysis and reasons it cannot stand. We set it aside in its entirety and direct that it be remitted to the First-tier Tribunal for a full rehearing.

**Notice of Decision**

The Secretary of State's appeal to the Upper Tribunal is allowed to the extent that the Decision and Reasons of the First-tier Tribunal is set aside and the case remitted to the First-tier Tribunal at Taylor House for a full rehearing.

No anonymity direction is made.

Signed

Date 2<sup>nd</sup> November 2017

Upper Tribunal Judge Martin