



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/05788/2016
EA/05790/2016
EA/05792/2016
EA/05793/2016
EA/05796/2016

THE IMMIGRATION ACTS

Decision & Reasons Promulgated
On 5 July 2018

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

MEHREEN SAEED
ANWAR SAEED

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(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Introduction

1. The appellants (dates of birth 26.02.1981, 23.03.1971, 07.02.2010, 08.08.2007, 30.11.2014) are citizens of Pakistan. They made applications to the Secretary of State for EEA residence cards. Their applications were refused in decisions dated 19.04.2016, for reasons that I need not set out herein.

Decision of the First-tier Tribunal

2. The appellants lodged their appeals to the First-tier Tribunal. Those appeals came before First-tier Tribunal Judge Shimmin, who concluded in decisions sent on 28.07.2017, that the First-tier Tribunal did not have jurisdiction to determine the appeals. No findings were made in relation to the substance of the appeals. The Judge's conclusion was informed by the guidance given by this Tribunal in Sala [2016] UKUT 00411.
3. The appellants appealed such decisions to the Upper Tribunal and First tier-Tribunal Judge Scott Baker granted permission in decisions sent on 07.03.2018. Thus, these matters come before me.

Discussion

4. The Court of Appeal has now given consideration to the very issue in play in the instant case - see Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755. The Court concluded that the Upper Tribunal had been wrong in its conclusion and rationale in Sala. It is not in dispute that the effect of the decision in Khan, if applied to this case, is that the First-tier Tribunal was wrong to conclude that it did not have jurisdiction in this appeal.
5. For this reason, I set aside the decisions of the First-tier Tribunal and remit the appeals back to the First-tier Tribunal to be heard afresh.

Decision

The decision of the First-tier Tribunal is set aside.

The appeal is remitted to the First-tier Tribunal.

Signed:

Dated: 04.07.2018



Upper Tribunal Judge O'Connor