



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: EA/14283/2016

THE IMMIGRATION ACTS

Heard at Field House

On 24th October 2017

**Decision & Reasons Delivered orally at
the hearing.**

Promulgated following typing

On 22nd February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

STEPHANIE MONIKA MANGAL
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Acting as. Litigant in Person

For the Respondent: Mr A McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Beg following an appeal on the papers considered at Taylor House. The Appellant's appeal had been against the Secretary of State's decision to reject her application for permanent residence under the EEA Regulations. The Appellant's husband is Mr Mohammad Mangal he was born in Afghanistan but is a German national. When granting permission to appeal, First-tier Tribunal Judge Pickup said as follows at paragraph 2

“It is arguable that the First-tier Tribunal Judge misunderstood the nature of the application. The Appellant sought permanent residence on the basis of being the family member of a qualified person exercising treaty rights for a continuous period of five years. The Appellant’s husband and Sponsor is a German national not Afghan as the judge believed. The judge failed to address the evidence before the Tribunal dealing with the husband’s five years qualification and mistakenly thought that the relevant issue was the Appellant’s own job record.”

2. The judge at paragraph 2 of her decision had said “the Respondent considered whether the Appellant’s husband Mohammad Mangal an Afghan national exercising treaty rights for a five year period.”
3. The judge was wrong because Mr Mangal is not an Afghan national. He is a German national. Then at paragraph 6 the judge said as follows.

“However what is required to meet the Regulations is evidence that the Appellant who is an EU national and whose appeal is before me has exercised treaty rights for a continuous period of five years.”

And then he said at 7

“The Appellant submitted a letter from HMRC dated 30th June 2015 showing that she paid class 2 national insurance contributions from 24th August 2014 to 11th April 2015. I find that there is sufficient evidence to show that she has been exercising treaty rights for a continuous period of five years. Her husband’s rights of residence under the Immigration (European Economic Area) Regulation 2006 stem from the Appellant’s rights as an EEA national. She cannot rely on his employment to meet Regulation 15(1)(a) of the 2006 Regulations.”

4. Mrs Mangal appears in person before me this morning and she said that she relied on her grounds of appeal and that the First-tier Tribunal Judge had made an error of law. She said her husband was a German national and that she should be issued with a permanent residence card. Mr McVeety in his submissions said that it was “pretty obvious” that the judge had misunderstood the basis of the case and he also considered a new bundle which the Appellant had submitted under cover of a letter of 16th October. Mr McVeety said he also had a number of documents within his file as well. He said the issue was whether or not a five-year period could be shown for the purposes of permanent residence. He said he was content to agree that the Appellant had provided sufficient evidence. There was such evidence. He said that I should set aside the First-tier Tribunal’s decision. I should remake the decision and allow the appeal which would grant the Appellant permanent residence.
5. Having considered the matter, it does appear quite clear to me that the judge made errors at paragraphs 2, 6 and 7 of her decision namely the paragraphs which I have cited. It is quite clear additionally from the

voluminous documents submitted with the application which were before the judge and the additional documents which had been submitted now (and which the Home Office Presenting Officer has been able to consider) that indeed the evidential requirements have been met and therefore Mr McVeety quite properly makes the concessions that he does. In the circumstances I find that there is an error of law in the decision of the judge. I remake the decision and I allow the Appellant's appeal so that permanent residence will, in due course, be granted.

Notice of Decision

The decision of the First-tier Tribunal contains an error of law. It is set aside.

I remake the decision and I allow the Appellant's appeal on the basis referred to above.

No anonymity direction is made.

Signed A Mahmood

Date; 24 October 2017

Deputy Upper Tribunal Judge Mahmood