



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/11879/2016

THE IMMIGRATION ACTS

Heard at HMCTS Employment Tribunal Decision and Reasons Promulgated
Liverpool
On 17 September 2018 On 20 September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

HAME (aka MOHAMED) DRAMA (aka BALAYARA)
(ANONYMITY ORDER NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Patel, Counsel, instructed by Immigration Advice Service,
Liverpool
For the Respondent: Mr Whitwell, Senior Home Office Presenting Officer

DECISION AND REASONS

UPON hearing from Ms Patel for the appellant and from Mr Whitwell for the respondent

AND UPON consideration of the appellant's grounds of appeal dated 5 February 2018
against the decision of Judge of the First tier Tribunal Khan dated 22 January 2018,

dismissing the appellant's appeal against the respondent's decision of 5 April 2016 refusing his human rights claim

AND UPON the parties indicating their agreement that the judge materially erred in law when assessing whether the appellant was cohabiting with his partner FD, and whether he had a caring role in looking after their children, in failing to take into account relevant evidence relating to those issues

AND UPON the Tribunal considering that it is appropriate to so order

IT IS HEREBY ORDERED, BY CONSENT, UNDER RULE 39, TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008, THAT:

- 1 The judge's decision dismissing the appellant's appeal be set aside.
- 2 The appellant's appeal be remitted to the First tier Tribunal for re-hearing, such hearing to take place at the Manchester hearing centre unless otherwise directed by subsequent decision of the Tribunal.

Signed:

Date: 18.9.18



Deputy Upper Tribunal Judge O'Ryan