



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

Appeal Number: HU/17916/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 26<sup>th</sup> February 2018**

**Decision & Reasons  
Promulgated  
On 16<sup>th</sup> March 2018**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**BALWINDER SINGH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

*For the Appellant: Mr D Balroop of Counsel instructed by AWS Solicitors*

*For the Respondent: Ms A Fijiwala, Home Office Presenting Officer*

**DECISION AND REASONS**

1. The appellant is a citizen of India born on 26<sup>th</sup> April 1991, who was granted leave to remain as the spouse of a British national from 29<sup>th</sup> January 2014 to 29<sup>th</sup> July 2016. On 11<sup>th</sup> July 2016, he made application for leave to remain as the spouse of a British citizen. That application was refused. It was refused because in a previous application he submitted an English language certificate from Educational Testing Service which was subsequently cancelled by ETS as a result of the fraudulent use of a proxy test taker. The Secretary of State also believed that there were no

exceptional circumstances which would permit her to allow the grant of leave to remain on the basis of a human rights claim outside the Immigration Rules.

2. The appellant appealed the decision of the Secretary of State and the appeal came for hearing before Judge Gribble on 3<sup>rd</sup> August 2017, at the First-tier Tribunal in Sheldon Court, Birmingham. She allowed the appellant's appeal under Article 8. The respondent challenged the decision and leave to appeal was subsequently granted by Upper Tribunal Judge Allan.
3. At the hearing before me today I was told that the Secretary of State accepts that there is no error of law in the determination of Judge Gribble. As a result the determination of Judge Gribble shall stand. **The appellant's appeal is allowed.**

***Richard Chalkley***

Upper Tribunal Judge Chalkley

**TO THE RESPONDENT**  
**FEE AWARD**

I order that the fees paid shall be repaid to the Appellant.

***Richard Chalkley***

Upper Tribunal Judge Chalkley

Dated 14 March 2018