



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeals Number: PA/01779/2016  
PA/01929/2016

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
On 10<sup>th</sup> January 2018**

**Decision & Reasons  
Promulgated  
On 26<sup>th</sup> January 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DEANS**

**Between**

**AS  
IF  
(Anonymity direction made)**

Appellants

**and**

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

Respondent

Representation:

For the Appellants: Mr A Caskie, Advocate, instructed by Neil Kilcoyne & Co, Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. These appeals are brought against a decision by Judge of the First-tier Tribunal Debra Clapham dismissing appeals on protection and human rights grounds.

2. The appellants are nationals of Pakistan. They claim they are at risk of persecution or serious harm in Pakistan because they are gay. The appellants state that they are in a relationship with each other. In addition, the first appellant claims to be at risk in Pakistan because of his involvement in a family dispute over land.
3. The judge of the First-tier Tribunal did not find the evidence of the appellants to be credible and was not satisfied that they are partners in a same sex relationship.
4. Permission to appeal was granted by the Upper Tribunal. At paragraph 4 of the grant it was pointed out that the Judge of the First-tier Tribunal appeared to have based her credibility findings on her general assessment that the appellants' evidence was "vague, evasive and confusing." The judge arguably failed to give examples or specific reasons as to why aspects of the evidence were not credible. The judge arguably did not give adequate reasons for her credibility findings and, in particular, did not give adequate reasons for rejecting the evidence of supporting witnesses.
5. At the hearing before me Mr Caskie founded upon paragraph 4 of the grant of permission. He pointed out that the Judge of the First-tier Tribunal heard the evidence of four witnesses altogether. The findings made at paragraphs 117-128 of the decision were vitiated by errors. The Judge had made one positive finding, namely that the Secretary of State had not shown that the first appellant's TOIEC test result was obtained by fraud. Mr Caskie nevertheless submitted that these were appeals in which remittal would be appropriate with no findings preserved.
6. Mr Matthews very properly did not seek to have the decision upheld.
7. I am satisfied that the Judge of the First-tier Tribunal erred in law by failing to give adequate reasons for her adverse credibility findings. Her decision is set aside. The proper course, as Mr Caskie submitted, is for the appeals to be remitted to the First-tier Tribunal to be reheard before a different judge with no findings preserved.

### **Conclusions**

8. The making of the decision of the First-tier Tribunal involved the making of an error of law.
9. The decision is set aside.
10. The appeals are remitted to the First-tier Tribunal with no findings preserved for the decision to be re-made before a differently constituted Tribunal.

## **Anonymity**

No direction for anonymity was made by the First-tier Tribunal. As the appeals are to be reheard I consider it appropriate to make a direction for anonymity to preserve the positions of the parties until the appeals are decided. Unless or until a tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellants or any members of their families. This direction applies to the appellants and to the respondent. Failure to comply with this direction may lead to contempt of court proceedings.

Deputy Upper Tribunal Judge Deans

25th January 2018