



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

Appeal Number: HU/17562/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 1 July 2019**

**Decision & Reasons Promulgated
On 8 July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**MR HARSHAN SASI
(Anonymity direction not made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Iqbal, Counsel instructed by York Solicitors

For the Respondent: Mr N Bramble, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is an Indian citizen born on 19 August 1951. The Respondent refused the application for leave to remain on 5 July 2016. His appeal against this was dismissed by Judge Khawar (“the Judge”) following a hearing on 17 December 2018. Permission to appeal was granted by Judge Hollingworth on 14 May 2019 on two grounds. Firstly, it is arguable that the Judge had erred in relation to his understanding of the Appellant’s daughter’s status in the United Kingdom. Secondly, the Judge may have given insufficient weight to the Appellant’s medical problems. I have considered all the submissions and papers.

2. In relation to ground 1, the Judge said at [24], "... it became apparent during this appeal that the Appellant's daughter only has limited leave to remain in the United Kingdom. Such leave expires on 14th May 2019". The Judge noted that she had entered the United Kingdom along with her husband as a student. He said, "she cannot have any reasonable expectation of being allowed to settle here". When the Judge heard the appeal, an application had been made for her to have indefinite leave to remain. No application had been made before the Upper Tribunal for fresh evidence to be introduced, and accordingly I have to look at the evidence before the Judge. As at that date the Appellant's daughter did not have permanent settled status. Accordingly, the Judge was factually accurate regarding the circumstances of the case before him and he did not materially err in his recitation or understanding of the facts.
3. The Judge made findings in relation to the Appellant's family life that have not been challenged, and concluded that he does not have a family life in the United Kingdom capable of meeting the required criteria under Appendix FM of the Immigration Rules.
4. Therefore, all that was remaining for the Appellant to argue about was his private life. In **Patel** v SSHD [2013] UKSC 72, we are reminded that in the context of Article 8 claims, private life carries little weight. The Judge did consider the Appellant's circumstances and made perfectly adequate findings in [29 to 31] concluding in him not accepting the Appellant's assertion that he had no property, assets, and/or savings to rely on if returned to India. At the date of the hearing therefore, the Judge considered the evidence and made findings to which he was entitled. In those circumstances, there was no material error of law in relation to ground 1.
5. In relation to ground 2, it is clear that the Appellant has health problems and has received medical treatment the most significant of which was having a stent inserted for a heart condition. It is abundantly clear that the extent of his health problems come nowhere near the relevant thresholds identified, first in relation to Article 3 in **N** v The UK (Application 26565/05), and in relation to Article 8 **SL (St Lucia)** [2018] EWCA Civ 1894, **GS (India)** & Ors v SSHD [2015] EWCA Civ 440, **Akhalu** (health claim: ECHR Article 8) [2013] UKUT 00400 (IAC), and **MM (Zimbabwe)** v SSHD [2012] EWCA Civ 279, and that the Judge was perfectly entitled to find that treatment was available in India. Quite properly Ms Iqbal did not pursue this ground. In those circumstances, there was no material error of law in relation to ground 2.
6. The Judge did not materially err. I do not set aside the decision.
7. No anonymity direction is made.
8. The appeal is dismissed and therefore there can be no fee award. There is no basis for a costs award.

Deputy Upper Tribunal Judge Saffer
5 July 2019

