



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

HU/08794/2019 (P)
HU/08792/2019 (P)

THE IMMIGRATION ACTS

Decided under rule 34

Decision & Reasons Promulgated
On 1 December 2020

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

BASNET & MAHARJAN

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS (P)

1. FtT Judge Roots dismissed the appellants' appeals by a determination promulgated on 14 November 2019.
2. The appellants sought permission to appeal to the UT on grounds of (1) failure to take account of a health issue regarding the second appellant (2) failure to take account of submissions on the first appellant's voluntary contribution to UK society and on the appellants' inter-caste marriage and (3) disregarding the appellants' evidence-in chief.
3. On 3 July 2020, Judge Zucker granted permission on grounds 1 and 2 only.

4. On 24 September 2020, the UT issued directions with a view to deciding without a hearing (a) whether the FtT erred in law and (b), if so, whether its decision should be set aside.
5. Neither party seeks a hearing on those questions. The UT may now decide them under rules 2 and 34 without a hearing.
6. In a submission dated 15 October 2020, the SSHD “does not oppose the appellants’ application for permission to appeal and invites the tribunal to set aside the determination of the FtT and remit to the FtT for a fresh (*de novo*) hearing”.
7. That is badly put. The application for permission has already been granted. However, I take the submission as a concession that the FtT erred in law, to such an extent that its decision should not stand.
8. In a submission dated 27 October 2020, the appellant agrees with the proposal for a remit, but says that “the issue of the TOEIC finding” should not be disturbed.
9. The decision of the FtT is set aside for error of law, as disclosed by grounds 1 and 2, and as conceded. The case is remitted to the FtT. The member(s) of the FtT chosen to consider the case are not to include Judge Roots.
10. The SSHD has not contended that there is any error in the FtT’s findings on the “TOEIC” issue, so those remain, and form the starting point in further decision-making.
11. No anonymity direction has been requested or made.

Hugh Macleman

UT Judge Macleman
23 November 2020

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal’s decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is “sent” is that appearing on the covering letter or covering email.