



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

Appeal Number: HU/07585/2019

THE IMMIGRATION ACTS

**Heard at Manchester by Skype for Decision & Reasons
Business Promulgated
On 11 February 2021 On 2 March 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**PUSHPA GHALE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr Balroop

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant., a female citizen of Nepal who was born on 2 April 1962, appealed to the First-tier Tribunal against a decision of the Entry Clearance Officer dated 21 March 2019 refusing her entry clearance to the United Kingdom. The First-tier Tribunal, in a decision promulgated on 24 February 2020, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appeal turned on whether the appellant had proved to the appropriate standard of proof that her husband, a former Ghurkha soldier, was dead. The First-tier Tribunal found that she had failed to prove this as a fact and dismissed her appeal. At the Upper Tribunal initial hearing on 11 February 2021, Mr McVeety, who appeared for the respondent, told me that the respondent considered that the First-tier Tribunal had erred in law by finding that the evidence adduced by the appellant had been insufficient to prove that her husband was dead. The judge's analysis was flawed in law for the reasons advanced in the appellant's grounds of appeal and as summarised by Upper Tribunal Judge Gill who granted permission to appeal. He submitted that the Upper Tribunal should set aside the decision of the First-tier Tribunal and remake the decision allowing the appeal.
3. In the circumstances, I set aside the First-tier Tribunal's decision and remake the decision allowing the appellant's appeal against the decision of the Entry Clearance Officer.

Notice of Decision

The decision of the First-tier Tribunal is set aside. I have remade the decision. The appellant's appeal against the decision of the Entry Clearance Officer is allowed.

Signed

Date 11 February 2021

Upper Tribunal Judge Lane