



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/08787/2015**

THE IMMIGRATION ACTS

**Heard at Field House
On 1 March 2021**

**Decision & Reasons
Promulgated:
On 09 March 2021**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**POONAM SHRESHTA
[NO ANONYMITY ORDER]**

Appellant

and

**THE ENTRY CLEARANCE OFFICER
NEW DELHI**

Respondent

Representation:

For the appellant: Mr Victor Ogunbusola, Counsel, appearing by Direct Access

For the respondent: Ms Alexandra Everett, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 11 September 2015 to refuse her entry clearance as the dependant adult

child of a former Gurkha soldier, with reference to the respondent's policy (Annex K) and the historic injustice. The appellant is a citizen of Nepal.

2. There have been numerous previous decisions on this appeal, which has now been outstanding for almost 6 years. The decision under challenge is that of First-tier Judge O'Garro dated 11 November 2019, following a hearing on 9 October 2019 at Hatton Cross.
3. The Upper Tribunal preserved the findings of First-tier Judge Plumptre in the previous appeal hearing that the appellant had made no false statement or representation in her entry clearance application, as the Entry Clearance Officer alleged. No suitability issue therefore arises.
4. The following facts are established and are sufficient to meet the requirements of Annex K:
 - (1)The sponsor is a former Gurkha who has been granted settlement under the 2009 discretionary arrangements;
 - (2)At the date of the present application the appellant was still under 30;
 - (3)The sponsor and the appellant are living together in Nepal, he having returned there after settling in the United Kingdom, because she could not manage alone after her divorce in 2011; and
 - (4)The appellant is financially and emotionally dependent on the sponsor.
5. At the hearing today, Ms Everett for the respondent accepted that these, and all other requirements of Annex K, were met, and that the appeal should be allowed. It is to be hoped that, despite the sponsor's ill health (see [8] of the O'Garro decision), entry clearance will be swiftly granted and they will both be able to come to the United Kingdom as intended.

DECISION

6. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. I remake the decision by allowing the appellant's appeal.

Signed [Judith AJC Gleeson](#)
Upper Tribunal Judge Gleeson

Date: 1 March 2021