



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/05278/2020**

THE IMMIGRATION ACTS

**Determined at Field House
On the 26 January 2022**

**Decision & Reasons Promulgated
On the 23 March 2022**

Before

**UPPER TRIBUNAL JUDGE RINTOUL
DEPUTY UPPER TRIBUNAL JUDGE I LEWIS**

Between

**AMRITPAL SINGH
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the appellant: Mr H Broachwalla, Duncan Ellis Solicitors
For the respondent: Ms Z Young, Senior Home Office Presenting Officer

**DECISION MADE PURSUANT TO RULES, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of First-tier Tribunal Skehan promulgated on 18 June 2021.
2. It was agreed by the parties that the grounds of appeal were made out. In summary, the judge erred in her application of Devaseelan in that she failed to note that the evidence before Judge Malcolm was different from that before her. That was material as the look-up tool information was

different as were the record numbers, as is noted in Mr Broachwalla's skeleton argument at [12]. There were differences also in date of birth and nationality, and the judge failed properly to engage with this issue, and thus erred in concluding that the respondent had satisfied the evidential burden. She erred also in not making findings as to the appellant's evidence.

3. In terms of remaking the decision, it is evident and both parties agree that the findings of fact are so flawed that none of the findings of fact is sustainable. Accordingly, we are satisfied that it would in all the circumstances be appropriate to set aside the decision in its entirety for it to be remade in the First-tier Tribunal.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which we did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. We are satisfied that the parties have given such consent at the hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. We remit the appeal to the First-tier Tribunal for a fresh decision on all issues. For the avoidance of doubt none of the findings made in Judge Skehan's decision is preserved.

Signed

Date: 26 January 2022

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul

