



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

Appeal Number: IA/09880/2014

THE IMMIGRATION ACTS

Heard at Bradford

On 23 September 2014

Determination

Promulgated

On 26 September 2014

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

ADEEL AHMED

Respondent

Representation:

For the Appellant: Ms Khan, Counsel, instructed by Maz Shah Legal.

For the Respondent: Mrs Petteresen, HOPO

DETERMINATION AND REASONS

1. This appeal came before Judge Baker on 8 May 2014. He allowed the claimant's appeal on Article 8 grounds.

2. The claimant arrived in the UK as a student, and, following the curtailment of his leave, married his first cousin in an Islamic ceremony, and made an application for leave to remain on that basis.
3. It was accepted that he could not meet the requirements of the Rules. The judge accepted that there was a subsisting relationship and that the claimant's wife was unwell and needed his care.
4. However there is nothing in this determination which shows that the Secretary of State's interests were properly weighed and considered.
5. The judge did not inform his conclusions by any reference to the immigration rules, but embarked on his own freewheeling exercise, unencumbered by them, which is the wrong approach.
6. Furthermore it is difficult to see what the basis for some of his conclusions were in the evidence before him, for example that the claimant's wife needs 24 care.
7. The decision is set aside.
8. The appeal should be reheard afresh by a differently constituted first-tier tribunal, not to include Judge Baker, at Bradford, with all issues at large.

Signed

Date

Judge of the Upper Tribunal