



IAC-FH-AR-V1

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

Appeal Numbers: VA/03054/2014
VA/03056/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 2 September 2015**

**Decision & Reasons Promulgated
On 16 September 2015**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**SHAHID BASHIR
FAKHRA BASHIR
(NO ANONYMITY ORDER MADE)**

Respondents

Representation:

For the Appellant: Miss J Isherwood, Senior Home Office Presenting Officer

For the Respondent: No appearance

DECISION AND REASONS

1. The Secretary of State appeals with permission against the decision of the First-tier Tribunal purporting to allow the appeal of First-tier Tribunal Judge Lucas under paragraph 41 of the Immigration Rules. The respondent below was the Visa Officer in Abu Dhabi. The appellants are a husband and wife, citizens of Pakistan who seek to visit family in the United Kingdom and the sponsor is the principal appellant's brother who is married and has children here.

2. There is now no right of appeal against the refusal of the visit visa save on human rights grounds and the First-tier Tribunal's decision therefore is ultra vires the Tribunal and cannot stand. The reason for this is the change to the grounds of appeal now set out at Section 84(1)(b) and (c) of the Nationality, Immigration and Asylum Act 2002 as amended.
3. No human rights grounds appear to have been advanced and there is no Rule 24 reply. The claimant has not arranged representation before the Tribunal today, so if there is anything further that they could have said we have not had the benefit of hearing it and no explanation has been provided.
4. Accordingly we are left with the situation where the judge allowed an appeal on a basis on which it was not open to him to allow it and where there appears to be no material upon which he could have allowed it on human rights grounds. That being so there is a plain error of law and the decision must be set aside and remade.
5. I proceed to remake it and I dismiss both appeals.

Conclusions

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I set aside the decision.

I re-make the decision in the appeal by dismissing it.

Anonymity

The First-tier Tribunal did not make an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I do not consider it necessary to make any anonymity order.

Signed

Date 15 September 2015



Upper Tribunal Judge Gleeson