



IAC-FH-NL-V1

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

Appeal Number: IA/32791/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 8 February 2016**

**Decision & Reasons  
Promulgated  
On 7 March 2016**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**and**

**MR TAIMOOR HASSIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

Respondent

**Representation:**

For the Appellant: Mr E Tufan, Home Office Presenting Officer  
For the Respondent: Mr J Wells, Counsel instructed by Maliks and Khan  
Solicitors

**DECISION AND REASONS**

1. This is an appeal by the Secretary of State. I shall refer to the respondent as the appellant as he was before the First-tier Tribunal. The appellant was a citizen of Pakistan and his date of birth is 10 March 1989. He made an

application for leave to remain on the basis of his family and private life here in the UK, in particular his relationship with a British citizen. His application was refused by the Secretary of State in a decision of 6 August 2014. The appellant appealed against this decision and his appeal was allowed by Judge of the First-tier Tribunal J Pacey in a decision which was promulgated on 21 May 2015, following a hearing on 27 April 2015. Judge Pacey allowed the appeal under the Immigration Rules concluding that the appellant met the requirements of EX.1.(b) because he is in a genuine and subsisting relationship with a partner who is in the UK and is a British citizen and there are insurmountable obstacles to family life with that partner continuing outside the UK.

2. The Secretary of State was granted permission by Judge of the First-tier Tribunal Kimnell on 29 December 2015 on the basis that it was arguable that insufficient reasons had been given for finding that there are insurmountable obstacles to family life taking place abroad in the appellant's country of nationality.
3. I heard representations from both Mr Tufan and Mr Wells and I conclude that the judge in this case materially erred because she did not adequately reason her decision under paragraph EX.1.1(b). The decision she reached was not grounded in the evidence before her. The judge did not adequately reason why the appellant and his partner could not relocate together to Pakistan where they could continue family life. In addition the judge's conclusions in relation to Ms Ali's mental health and treatment were not consistent. There was no reason given explaining why the appellant could not continue to support and help his wife in Pakistan. The judge considered the appellant's wife's circumstances in accordance with Azimi-Moayed and Others (decisions affecting children; onward appeals) [2013] UKUT 197. However the guidance in this case relates to children and not adults. I set aside the decision of the First-tier Tribunal to allow the appeal under the Rules.
4. The decision is remitted to the First-tier Tribunal for it to be reconsidered under the Immigration Rules and to consider Article 8 outside of the Rules taking into account Section 117 of the 2002 Act and relevant jurisprudence.
5. The judge of the First-tier Tribunal made limited findings in relation to the appellant and Ms Ali and there is no reason to go behind those findings unless there is evidence before the First-tier Tribunal which was not before Judge Pacey and which undermines the findings. I refer specifically to the findings in relation to the appellant supporting his wife and the nature of the relationship (paragraph 30) and the finding relating to the appellant's wife's circumstances (paragraph 29). However, as stated above, the findings in relation to Ms Ali's mental health and treatment for it is not consistent and the First-tier Tribunal need to make further findings of fact in order to properly consider Article 8.

**Notice of Decision**

The Secretary of States appeal is allowed. I set aside the decision of the FtT to allow the appeal. The matter is remitted to the First-tier for a re-hearing.

No anonymity direction is made.

Signed            Joanna McWilliam

Date 25 February 2016

Upper Tribunal Judge McWilliam