

Upper Tribunal (Immigration and Asylum Chamber)

THE IMMIGRATION ACTS

Heard at Field House On 20 October 2017 Decision & Reasons Promulgated On 27 October 2017

Appeal Number: HU/02455/2016

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

MISS HEENA RANA (ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Jaisri, Sam Solicitors

For the Respondent: Mr P Naith, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from the decision of First-tier Tribunal Judge Housego promulgated on 13 July 2017. The appeal relates to Heena Rana, a female citizen of Nepal born in 1985. The refusal letter in this case turned upon the assessment of the Entry Clearance Officer and, in particular, the application of Annex K and the historic injustice in relation to the Nepalese members of the armed forces and their families.

Appeal Number: HU/02455/2016

 I have short circuited submissions in this regard partly on the basis that when permission was granted the judge commented adversely on the overall length of the decision, with substantial recitation of jurisprudence, when set against the comparative brevity of the findings of fact.

3. For present purposes I need only rehearse paragraph 48 which reads as follows:

"The appellant does not meet Annex K given that she is over 30 and there is more than two years since the last visit until the date of application. Nor does the Secretary of State accept that there is emotional and financial dependence on the sponsor. Annex K was required because people such as the appellant did not fall within the Immigration Rules."

- 4. The judge appears to have fallen into error by declaring the appellant to be over 30 years of age when it is common ground that as at the date of the application she was 29. It is not contested that the qualifying date is indeed the date of the application.
- 5. Mr Naith who appears for the Secretary of State has very properly conceded that this is a decision which cannot withstand proper scrutiny and which he does not seek to uphold.
- 6. Given that that error goes to the heart of the assessment made by the judge, and given that the reasoning is otherwise so deficient, an error of law is established. The only possible disposal is for the matter to be remitted to the First-tier Tribunal for a re-hearing. It would be inappropriate for me to pass any comment on the remainder of the points raised in the grounds of appeal or on the decision more generally.

Notice of Decision

- (1) Having found a material error of law, the decision of First-tier Tribunal set aside.
- (2) Matter to be remitted to be heard afresh by a Judge other than Judge Housego.
- (3) No findings of fact preserved.
- (4) No anonymity direction is made.

Signed Mark Hill Date 26 October 2017

Deputy Upper Tribunal Judge Hill QC