



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/04923/2016

THE IMMIGRATION ACTS

Heard at Civil Justice Centre, Manchester
On 4th June 2018

Determination Promulgated
On 5th June 2018

Before

UPPER TRIBUNAL JUDGE COKER

Between

NIDA ASLAM

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Khalid Gill, Gill Law Chambers

For the Respondent: Mr P Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

1. First-tier Tribunal Beach granted Ms Aslam permission to appeal the decision of First-tier Tribunal judge Kelly who had dismissed her human rights appeal following the refusal of her application for Entry Clearance as the spouse of her British sponsor.
2. First-tier Tribunal Judge Kelly found that the appellant had submitted the documents required to meet the criteria in the Immigration Rules. He also found that the sponsor's income was more than the required £18,600. Those findings were not subject to challenge. For some unexplained reason the judge dismissed the appeal.

3. Mr Duffy accepted, correctly, that the judge had failed to make a clear reasoned finding for dismissing the appeal and that such a failure amounted to a material error of law. I set aside the decision to be remade, such findings as First-tier Tribunal judge Kelly had made retained.
4. Mr Duffy submitted that there could be scenarios where the relevant documents had been submitted but for some reason they did not illustrate with sufficient precision that the criteria in the Immigration Rules were met; even though income was shown to be sufficient, if the requirements of the Rules were not met this would not necessarily render a decision to refuse a human rights application disproportionate absent some compelling reason. However, he accepted that this was not such a case. In this case, the appellant had submitted the required documents, as found by the judge, and the income was above the required level, as found by the judge.
5. I allow the appeal.

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 allowing it.



Date 4th June 2018

Upper Tribunal Judge Coker