



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

appeal number: HU/07760/2017

THE IMMIGRATION ACTS

Heard at Glasgow

**Decision and Reasons
Promulgated**

On 9 November 2018

On 16 November 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

WAQAR [A]

(anonymity direction not made)

Respondent

For the Appellant: Mr A Govan, Senior Home Office Presenting Officer
For the Respondent: Mr S Winter, Advocate, instructed by Maguire, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this determination refers to them as they were in the FtT.
2. The SSHD appeals against the decision of FtT Judge David C Clapham SSC, promulgated on 21 March 2018.
3. The nub of the first ground of appeal is that the judge failed to consider insurmountable obstacles to the relationship between the appellant and

his partner continuing in Pakistan; whether there were medical facilities in Pakistan to meet her medical needs; and the burden on the appellant to show that facilities were not available.

4. The judge's decision is short and clear. There is reference to a number of factors relied upon to show insurmountable obstacles - lack of ties in Pakistan, inability to speak Urdu or Punjabi, and family ties in the UK - which might go towards making such a case, but which even in combination would probably fall short. The key finding however is at paragraph 17, accepting medical evidence that the appellant's partner was unfit even to travel to Pakistan. The grounds make no challenge to that finding. If she is unfit to travel to Pakistan, the quality of medical treatment there is irrelevant.
5. The conclusion that there were insurmountable obstacles inevitably followed, which met the terms of the rules, and in turn established the case on human rights grounds.
6. In absence of any error disclosed by ground 1, ground 2 is immaterial. Once insurmountable obstacles had been established, there is nothing in section 117B of the 2002 Act which might have brought about another outcome.
7. The decision of the First-tier Tribunal shall stand.
8. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

Dated 9 November 2018
Upper Tribunal Judge Macleman