



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

Appeal Number: HU/00684/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 7 January 2019**

**Decision & Reasons  
Promulgated  
On 29 January 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**MRS CHRISHANTHINI RAMANAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Ms A Patyna, Counsel instructed by Gurney Harden Solicitors

For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, a citizen of Sri Lanka born on 12 October 1978 who is married to a British citizen, is appealing against the decision of Judge of the First-tier Tribunal Clarke promulgated on 4 October 2018.
2. On 5 September 2017 the appellant applied for entry clearance to the UK under Appendix FM of the Immigration Rules as the spouse of a British citizen. Her application was refused for the sole reason that the most

recent pay slip submitted was said to be dated 31 July 2017, which was more than 28 days prior to the application.

3. The appellant appealed to the First-tier Tribunal. She requested that the appeal be considered without a hearing. On 5 June 2018 the Tribunal directed the appellant to file by 1 August 2018 the evidence upon which she wished to rely in support of her appeal. A bundle was duly lodged with the Tribunal and received on 1 August 2018.
4. The appeal was considered on the papers on 2 August 2018. It is clear from the decision that the judge did not have before him the bundle of evidence that was submitted by the appellant.
5. At the error of law hearing Mr Tarlow accepted that the judge had made an error of law by not considering the bundle of evidence that was submitted to the Tribunal and that as a consequence the decision could not stand.
6. The sole issue before the First-tier Tribunal was the absence of a pay slip covering a period within 28 days of the hearing as required by Appendix FM-SE. The bundle that was submitted to the First-tier Tribunal but not seen by Judge Clarke includes a pay slip dated 31 August 2017. This covers the required period.
7. Mr Tarlow accepted that the evidence demonstrates the appellant satisfies the requirements of Appendix FM and Appendix FM-SE and that the appeal should be allowed under Article 8 ECHR as there is no public interest in refusing entry to the appellant.
8. I agree with Mr Tarlow. I therefore set aside the decision and remake the decision by allowing the appellant's appeal.

### **Notice of Decision**

The decision of the First-tier Tribunal is set aside.

I remake the decision of the First-tier Tribunal by allowing the appellant's appeal.

No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Sheridan Dated: 21 January 2019