



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

PA/12347/2019 (P)

THE IMMIGRATION ACTS

Decided under rule 34

Decision & Reasons Promulgated
On 5 August 2020

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

M H

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS (P)

1. FtT Judge Rose dismissed the appellant's appeal by a decision promulgated on 20 February 2020.
2. On 31 March 2020, FtT Judge Fisher granted permission to appeal to the UT, because at [19] Judge Rose took section 8 of the 2004 Act as the starting point. There was also concern over [21], where the judge said he would have expected independent verification of documents from Bangladesh.
3. In submissions dated 10 June 2020, the respondent accepts that the FtT materially erred in law on section 8, because although that was a relevant factor, it was not the starting point.
4. The concession is correctly made.

5. The decision of the FtT is set aside. It stands only as a record of what was said at the hearing.
6. There is a presumption that the UT will proceed to remake decisions, of which parties are reminded in directions issued with the grant of permission. However, the nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing.
7. The member(s) of the FtT chosen to consider the case are not to include Judge Rose.
8. The anonymity direction made by the FtT is preserved at this stage.
9. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman

UT Judge Macleman

Date: 28/7/2020

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent" is that appearing on the covering letter or covering email.