



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: UI-2021-001514  
On appeal from HU/50334/2021; IA/01759/2021**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21 April 2022**

**Decision & Reasons Promulgated  
On 14 October 2022**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**ATIF JHANGIR  
[NO ANONYMITY ORDER]**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Asif Maqsood, Counsel instructed by Julia & Rana Solicitors

For the Respondent: Mr Stephen Walker, a Senior Home Office Presenting Officer

**DECISION OF THE UPPER TRIBUNAL  
PURSUANT TO RULE 40(3)(a) OF  
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 19

November 2014 to refuse him leave to remain in the UK outside the Immigration Rules HC 395 (as amended) on compassionate grounds.

2. The First-tier Tribunal dismissed the appeal. On 10 February 2022, permission to appeal was granted by First-tier Judge Connal who considered that the First-tier Tribunal had arguably made material errors of fact capable of constituting an error of law, in relation to the factual position regarding the appellant's TOEIC tests, and/or that the judge had misunderstood the evidence provided regarding those tests, which may have materially affected his conclusions. Permission to appeal was granted on all grounds of appeal.
3. It is common ground that the First-tier Tribunal did materially err in law in reaching its conclusions of fact and credibility, for the reasons set out in the grounds of appeal and in particular, ground five (failure to take IELTS evidence of pre-TOEIC English language evidence into account). Both parties agree that this is a case where the decision of the First-tier Tribunal must be set aside and remade.
4. I am satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice.
5. Pursuant to rule 40(3) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) will be provided unless, within 7 days of the sending out of this decision, either party indicates in writing that they do not consent to the appeal being disposed of in the manner set out at (5) above.
6. If in consequence an oral hearing is required, but the outcome is the same, the Upper Tribunal will consider making an order for wasted costs.

## Decision

7. I set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The appeal will be remade in the First-tier Tribunal on the basis described in the grant of permission.

Signed: [Judith AJC Gleeson](#)  
Upper Tribunal Judge Gleeson

Date: 21 April 2022