



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

**Appeal Number: UI-2022-002748
[HU/53397/2021]; IA/12954/2021**

THE IMMIGRATION ACTS

**Heard at Field House
On the 17 November 2022**

**Decision & Reasons Promulgated
On the 30 November 2022**

Before

**UPPER TRIBUNAL JUDGE KOPIECZEK
DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

Between

**ASMA SALEEM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E. Daykin, Counsel instructed by Makka Solicitors Ltd
For the Respondent: Mr E. Tufan, Senior Home Office Presenting Officer

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

1. The appellant, a citizen of Pakistan, appealed to the First-tier Tribunal (“FtT”) against a decision to refuse leave to remain as a spouse, the decision having been taken with reference to Appendix FM of the

Immigration Rules, in particular the financial requirements under paragraph E-LTRP.3.1-3.4. The FtT dismissed the appeal.

2. Permission to appeal the decision of the FtT having been granted, the appeal came before us for hearing. At that hearing it was agreed between the parties that the FtT had erred in law for the reasons advanced in the grounds of appeal upon which permission to appeal was granted (and to which reference may be made for a full understanding of the errors of law).
3. In summary, the grounds contend that there was procedural unfairness in the FtT's consideration of the issue of an adjournment, its consideration (or lack of it) of the appellant's bundle of evidence, the consideration of the evidence as at the date of the hearing in relation to Article 8 of the ECHR, and the respondent's Covid policy as it applies to the financial requirements of Appendix FM.
4. It was further agreed between the parties that the errors of law are such as to require the decision of the FtT to be set aside and for the appeal to be remitted to the FtT for a hearing *de novo*.
5. In the circumstances, we set aside the decision of the FtT for error of law and remit the appeal to the FtT for a hearing *de novo* before a judge other than First-tier Tribunal Judge Pears, with no findings of fact preserved.
6. In remitting the appeal we have had regard to paragraph 7.2 of the Practice Statement of the Senior President of Tribunals.
7. Pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) are required, the decision being made with the consent of the parties.

A.M. Kopieczek

Upper Tribunal Judge Kopieczek
2022

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