



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004365

First-tier Tribunal No:
HU/56989/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

1st November 2023

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

LAMIAA ALZAIM
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Haddow, instructed by Duheric & Co, solicitors.

For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

Heard at 53 Melville Street Edinburgh on 25 October 2023

DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge S Gillespie promulgated on 14 May 2022 dismissing her appeal against a decision of the Secretary of State to refuse her entry clearance as the dependent relative of a person settled here.
2. Both parties agreed that the decision of the First-tier Tribunal involved the making of an error of law for the reasons set out in the grounds of appeal. They were right to do so. It is evident from the material supplied

that the judge acted unfairly by asking too many questions, and in seeking to pursue lines of questions which went well beyond seeking clarification. It is also evident that, partly as a result, the reasoning behind the decision as to whether care was available was flawed.

3. Given that there was not a fair hearing, I am satisfied that it is appropriate to remit the appeal to the First-tier Tribunal for it to be remade.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. The appeal will be remade in the Upper Tribunal. None of the “facts” found by the First-tier Tribunal are preserved.

Signed

Date: 25 October 2023

Jeremy K H Rintoul

Judge of the Upper Tribunal