



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI 2023 004356
UI 2023 004355
First-tier Tribunal No:
HU/01026 2023 and HU/01027 2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 12th of January 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

(1) SAKARIYE ABDIRAHMAN ALI
(2) IKRAAN MOHAMED ABDULAH
(NO ANONYMITY ORDER MADE)

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr N Ahmed, counsel instructed by Eurasia Legal Services.

For the Respondent: Ms R Arif, Senior Home Office Presenting Officer.

Heard at Birmingham Civil Justice Centre on 21 November 2023

DECISION AND REASONS

1. The Appellants appeal against the decision of First-tier Tribunal Judge C.L. Taylor ("the Judge) signed on 7 August 2023 which had dismissed their appeals. Permission to appeal was granted by First-tier Tribunal Judge Dainty by way of a decision dated 19 September 2023.
2. The matter had come for hearing before me today. Mr Ahmed and Ms Arif had said that they had discussed the matter prior to the hearing. They said that they had both concluded that the decision of the Judge contains material errors of law. Mr Ahmed and Ms Arif jointly invited me to conclude that the matter be remitted for hearing before the First-tier Tribunal with no findings from the Judge's decision to stand.

3. Having considered the joint submissions made to me and having taken into account The Tribunal Procedure (Upper Tribunal) Rules 2008 and Rule 5 in particular, I see no reason to stand in the way of the joint agreed approach of the parties. I note the errors of law in the Judge's decision as identified in the grounds of appeal.
4. Having reflected on the submissions, I set aside the decision of the First-tier Tribunal. I apply **AEB [2022] EWCA Civ 1512 and Begum (Remaking or remittal) Bangladesh [2023] UKUT 00046 (IAC)**, and I carefully consider whether to retain the matter for remaking in the Upper Tribunal in line with the general principle set out in Paragraph 7 of the Senior President's Practice Statement. I take into account the history of this case, the nature and extent of the findings to be made and that this appeal requires assessment of the Appellants' evidence. In considering paragraph 7.1 and 7.2 of the Senior President's Practice Statement there has to be a re-assessment of the Appellants' claim as a whole, I conclude that fairness requires that there be a re-hearing at the First-tier Tribunal and that the Appellants be afforded the opportunity of having their appeal heard by the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal contains a material error of law and is set aside.

The matter is remitted to the First-tier Tribunal for re-hearing. None of the findings of the First-tier Tribunal shall stand.

No anonymity order is made.

Abid Mahmood
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

21 November 2023