



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: UI-2024-  
001625**

**First -tier Number: HU/56766/2023**

**THE IMMIGRATION ACTS**

**Decisions and Reasons  
Promulgated**

**On 20<sup>th</sup> of June 2024**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**Mr HARPAL SINGH  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Heard at FIELD HOUSE on 14 June 2024**

**Representation:**

For the Appellant: Mr H Broachwalla, Counsel  
(instructed by FR Solicitors)

For the Respondent: Mr P Wain, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant appealed with permission granted by Upper Tribunal Judge Norton-Taylor on 10 May 2024, against the decision of First-tier Tribunal Judge Abebrese who had dismissed the appeal of the Appellant against the refusal of his Article 8 ECHR family and private life settlement claim, based on his claim of 20 years continuous residence in the United Kingdom. The decision and reasons was promulgated on 25 February 2023.
2. The Appellant is a national of India, born on 11 September 1970. The Respondent accepted that the Appellant had entered the United Kingdom as a visitor on 2 May 2002, but did not accept that the Appellant had remained in the United Kingdom continuously since that date for the succeeding 20 years. There was no evidence (apart from the entry stamp in the Appellant's passport to show continuous residence prior to 2014, when the Appellant had made an unsuccessful asylum claim. On 2 May 2023 the Appellant had applied for leave to remain, which was refused by the Respondent on 23 May 2023. Suitability was accepted but not eligibility.
3. Judge Abebrese found that the Appellant was not a credible witness. The Appellant had failed to prove that he had resided in the United Kingdom for a continuous period of 20 years. Supporting evidence was lacking for the Appellant's claims, including his medical claim. The Appellant could reintegrate into India without facing very significant obstacles. He had lived there for much of his life. His wife and children lived there. He would be able to access health care and medicines. He could maintain contact with his friends in the United Kingdom. His private life had been established while his immigration status was precarious. The public interest in immigration control prevailed. Thus the appeal was dismissed.
4. Upper Tribunal Judge Norton-Taylor considered that it was arguable that Judge Abebrese had materially erred by failing to deal with relevant submissions and/or evidence, and in failing to take account of the Respondent's stated position as to certain aspects of the Appellant's claimed residence. It had been important for the Appellant to provide supporting evidence in respect of certain aspects

of the grounds. This was done in the form of Counsel's attendance note. All grounds were arguable.

5. At the Tribunal's request, Mr Wain for the Respondent indicated at the start of the hearing that the Appellant's appeal was opposed. The grounds of appeal were not made out. The decision was adequate. The Judge had taken a holistic view of the evidence and had disbelieved the Appellant. It was clear that the Judge had rejected the witness evidence. He had considered that the Appellant had maintained his relationships in India. That was open to him.
6. Mr Broachwalla for the Appellant relied on the grounds of appeal and grant of permission to appeal. The Appellant's passport showed the date of his entry to the United Kingdom, which was not contested. The Judge had not engaged with the evidence of the Appellant's two supporting witnesses or given proper reasons for his findings. The Judge had not considered the heart of the claim. It was inevitable where an appellant had admitted evading the authorities that he would have few documents, which is where the Appellant's witnesses came in. Their truthfulness had not been challenged before the Judge at the hearing. The Judge's reasoning was inadequate. Counsel submitted that the appeal should be reheard before another judge in the First-tier Tribunal, with no findings preserved.
7. The Tribunal agreed with Mr Broachwalla that the Judge's decision was inadequately reasoned. The decision contained a number of typographical errors, such that the lack of care in the proofreading of the decision was of concern. While such errors might not in themselves amount to a material error of law, it is almost inevitable that they will undermine confidence in the decision. The appeal was only about the Appellant's private life, but at [4] of the decision the Judge erroneously stated that the appeal concerned the Appellant's family life.
8. The main section of the Judge's reasoning appears at [18] of his brief decision. This by no means deals with the critical elements of evidence. The Appellant had claimed that he had remained as an overstayer since the date of

his initial entry to the United Kingdom as recorded in his passport. It was therefore almost inevitable that he would have few supporting documents, if any. But there was the evidence of two live witnesses, vouching that they knew that the Appellant had lived in the United Kingdom for 20 years. Their evidence was not recorded by the Judge as being the subject of any specific challenge and was not discussed in any detail by the Judge. Of course long residence claims are open to abuse and should be approached with caution, yet this was not an appeal where there was no corroboration of any kind or where a wholly implausible account had been put forward of the Appellant's presence in the United Kingdom.

9. The absence of sufficient proper analysis and reasoning means that decision cannot stand and must be set aside and remade, at a further hearing in the First-tier Tribunal, with no findings preserved, before another judge.

### **DECISION**

The appeal to the Upper Tribunal is allowed. The making of the previous decision involved the making of material errors on a point of law. The decision is set aside.

No findings of fact are preserved. The appeal is remitted to the Taylor House Hearing Centre to be reheard by any judge except Judge Abebrese.

**Signed R J Manuell**

**Dated** 18 June 2024

**Deputy Upper Tribunal Judge Manuell**