



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003804
First tier number: EA/03550/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 5th of November 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

Hafiz Muhammad Abdul Rauf
(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Determined without a hearing

DECISION AND REASONS

1. The applicant is a citizen of Pakistan. His appeal to the First-tier Tribunal was dismissed and he appealed to the Upper Tribunal which granted permission as follows:

The appellant seeks permission to appeal against the decision of FTTJ Mulholland on the basis that there has been a procedural irregularity which rendered the proceedings materially unfair. He argues that he had notified the tribunal administration that he no longer consented to a determination without a hearing approximately a week before the judge was asked to determine the appeal on the papers. After the matter was allocated to the judge, but, importantly, before the decision was promulgated, the applicant paid the additional fee for his case to be decided after a hearing. I consider it to be arguable that this sequence of events deprived the applicant of a fair hearing of his appeal. It is arguable that either the appeal should not have been allocated to a judge once the fee was paid and before the decision was promulgated.

While I consider the grounds to disclose an arguable error of law on a procedural basis, it may be argued that any error is immaterial because the appeal could not succeed applying *Batool* and others (other family members: EU exit) [2022] UKUT 00219 (IAC) as the judge found that the applicant did not have a relevant document. However, this was predicated on this factual matter being undisputed (see [9]). The difficulty with this analysis is that it is unknown whether the applicant might have disputed this fact at the hearing he was arguably deprived from attending.

2. The Secretary of State has filed a Rule 24 reply. She states that, 'The Kings Birthday bank holiday was on 27 May and that may have delayed the processing of the appellant's payment. The respondent is prepared to give the appellant the benefit of the doubt and would not oppose a face-to-face hearing of the appeal in the First tier Tribunal.'
3. In the circumstances, I set aside the decision of the First-tier Tribunal and direct a fresh hearing before the First-tier Tribunal which will remake the decision.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned the First-tier Tribunal which shall remake the decision following a hearing *de novo*.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 30 October 2024