



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004201

First-tier Tribunal No: HU/55460/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 19th of December 2024

Before

UPPER TRIBUNAL JUDGE HANSON

Between

FS
(ANONYMITY ORDER MADE)

Appellant

and

AN ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr Holmes instructed by Legal Justice Solicitors.

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

Heard at Phoenix House (Bradford) on 11 December 2024

DECISION AND REASONS

1. The Appellant appeals with permission a decision of First-tier Tribunal Judge Saffer ('the Judge'), dated 11 June 2024, in which he dismissed the Appellant's appeal against the refusal of an application for leave to enter the United Kingdom to join her brother, M, an Iranian national with refugee status, as an adult dependent relative due to exceptional circumstances arising from her sexuality and risk from an abusive father.
2. The Appellant's brother entered the United Kingdom lawfully with a student visa on 22 August 2021 but later applied for and was granted refugee status on 8 April 2022.
3. The Judge records it being accepted before him that the Appellant did not meet the Immigration Rules.
4. Having considered the documentary and oral evidence, submissions, and relevant legal provisions, the Judge sets out his findings from [21] of the decision under challenge, leading to the appeal being dismissed on all grounds.

5. The Appellant sought permission to appeal which was refused by another judge of the First-tier Tribunal but granted on a renewed application by Upper Tribunal Judge Loughran on 23 September 2024, the operative part of the grant being in the following terms:
 - (2) Ground 1: It is arguable that the First tier Tribunal Judge ('the judge') acted with procedural unfairness by rejecting aspects of the Appellant's claim that had not been raised or put to her by the Respondent.
 - (3) Ground 2: It is arguable that the judge failed to have regard to relevant matters/evidence in considering whether family life existed between the Appellant and the Sponsor.
 - (4) Ground 3: It is arguable that the judge erred in concluding that the Appellant had made an asylum claim out of country.
 - (5) Ground 4: It is arguable that the judge failed to give adequate reasons for rejecting aspects of the Appellant's account.
 - (6) The grounds disclose arguable errors of law.
6. No Rule 24 response had been provided by the Secretary of State and so Mr Diwnycz was asked what the Secretary of State's view was in relation to the merits of the appeal. In reply he accepted that the Judge had erred in law in a manner material to the decision to dismiss the appeal for the reasons set out in the grounds seeking permission to appeal.
7. One of the points conceded as the procedural fairness point. That combined with the other issues highlighted in the grounds and extent of the concession warrant the appeal being set aside with no preserved findings.
8. In relation to the future conduct of the appeal, Mr Holmes submitted the appeal should be remitted to the First-tier Tribunal. Having considered his reasons, the Presidential guidance on remittals, and the guidance provided by the Upper Tribunal in its published case law, I consider it is appropriate in all the circumstances for the appeal to be remitted to the First-tier Tribunal hearing centre at Bradford, to be heard *de novo* by a judge other than Judge Saffer.

Decision

9. The First-tier Tribunal materially erred in law. That decision is set aside with no preserved findings.
10. The appeal is remitted to the First-tier Tribunal sitting at Bradford to be heard *de novo* by a judge other than Judge Saffer.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

11 December 2024