



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/07853/2013

**THE IMMIGRATION ACTS**

Heard at Manchester  
On 2<sup>nd</sup> June 2014

Determination Promulgated  
On 6<sup>th</sup> June 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

MR MUHAMMAD SHAHZAD ASHIQ

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Khan  
For the Respondent: Miss Johnstone

**DETERMINATION AND REASONS**

**Introduction**

1. The Appellant born on 9<sup>th</sup> August 1976 is a citizen of Pakistan. The Appellant who was present was represented by Mr Khan. The Respondent was represented by Miss Johnstone, a Home Office Presenting Officer.

**Substantive Issues under Appeal**

2. The Appellant had made application for leave to remain in the United Kingdom as a Tier 1 (Entrepreneur) Migrant under the points-based system. He made application on 29<sup>th</sup> June 2012. That application was refused by the Respondent on 27<sup>th</sup> February 2013. The Appellant appealed that decision and his appeal was heard by Judge of the First-tier Tribunal Colvin sitting at Taylor House on 30<sup>th</sup> January 2014. The judge dismissed the Appellant's appeal under both the Immigration Rules and on human rights grounds.
3. Application for permission to appeal was made and permission was granted by First-tier Tribunal Judge Grant-Hutchinson on 21<sup>st</sup> March 2014. The judge found an arguable error of law in respect of one matter namely that the judge made no findings that removal by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006 was not in accordance with the law given that at the date of decision (27<sup>th</sup> February 2013) Section 51 of the Crime and Courts Act 2013 had not come into force.

### **The Proceedings - Introduction**

4. Miss Johnstone accepted that an error of law had been made in terms of the matters raised in paragraph 2 of the permission to appeal grant. There was nothing further added by Mr Khan.
5. I provide my decision with reasons.

### **Decision and Reasons**

6. An error of law was made in this case and the manner identified in the permission to appeal being granted at paragraph 2. The date of decision in this case by the Respondent was 27<sup>th</sup> February 2013. The Respondent had made an error of law in not having previously curtailed the Appellant's extant leave and the Judge of the First-tier Tribunal had made an error of law in not finding that the decision made by the Respondent was unlawful in that the issuing of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006 at that time was not in accordance with the law.
7. Whilst that situation has now been rectified by the insertion of Section 51 of the Crime and Courts Act 2013 from 8<sup>th</sup> May 2013 that was not the position at the date of decision.
8. The Judge of the First-tier Tribunal should have remitted the matter back to the Home Office to make a decision in accordance with the law in this case. His failure to do so amounted to a material error of law.

### **Decision**

9. I find that the judge made a material error of law in this case and set aside the decision of the First-tier Tribunal and in substituting a fresh decision direct that this matter be remitted back to the Home Office for them to make a decision in accordance with the law.

Signed

Date

Deputy Upper Tribunal Judge Lever