



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/12840/2016

THE IMMIGRATION ACTS

Determined on the papers at Field House  
On 3<sup>rd</sup> August 2018

Decision & Reasons Promulgated  
On 9th August 2018

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

SHAHZAD HUSSAIN  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. In the light of *Khan v Secretary of State for the Home Department* [2017] EWCA Civ 1755 permission to appeal to the Upper Tribunal was granted because it is arguable that the First-tier Tribunal erred in concluding that it did not have jurisdiction to hear the appeal.
2. Directions were issued within the grant of permission to appeal by Upper Tribunal Judge McWilliam on 13 June 2018 stating that the Tribunal is minded to find an error of law, set aside the decision of the First-tier Tribunal and remit the case to the First-tier Tribunal. Any party opposed to that course of action was to inform the Tribunal within 7 days.
3. Neither party has opposed the course of action that the Tribunal was minded to take in the above directions and most recently, the Appellant's representatives have expressly endorsed the approach.
4. In these circumstances and for the reasons set out in Khan, I find an error of law in the decision of Judge Frankish promulgated on 18 September 2017 and set aside that

decision. The appeal is remitted to the First-tier Tribunal (Taylor House hearing centre) to be heard de novo before any Judge except Judge Frankish.

**Notice of Decision**

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal.

No anonymity direction is made.

Signed



Date

3<sup>rd</sup> August 2018

Upper Tribunal Judge Jackson