



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/06726/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 12th September 2018**

**Determination Promulgated
On 21st September 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE I A M MURRAY

Between

**MAHBUBUR RAHMAN
(ANONYMITY HAS NOT BEEN DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Waheed, Counsel for Hamlet Solicitors, London
For the Respondent: Mr Withwell, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh born on 15 February 1993. He appealed the Home Office's decision of 24 May 2017 refusing him leave to remain in the United Kingdom on the basis of human rights citing family and private life as he had undergone an Islamic marriage with Luna Ali, a British citizen, on 7 October 2016 and they now have a child who is also a British citizen born on 17 August 2017. His appeal was heard by Judge of the First-Tier Tribunal Geraint Jones on 14 May 2018 and was dismissed on human rights grounds in a decision promulgated on 24 May 2018.

2. An application for permission to appeal was lodged and permission was granted by Judge of the First-Tier Tribunal Grimmett on 14 July 2018. The permission states that the Judge erred in finding that the appellant used deception to remain in the United Kingdom. Neither the respondent nor the Presenting Officer raised any allegation of deception either before or at the hearing and this issue was not put to the appellant.
3. There is no Rule 24 response.

The Hearing

4. The Presenting Officer submitted that the issue of deception was at no time put to the appellant and was not mentioned until the decision was promulgated and he therefore accepted that there is a material error of law in the First-Tier Tribunal Judge's decision.
5. Counsel thanked him for this submission.
6. It is clear that this important issue was not raised before or at the hearing and was never put to the appellant. This must be a material error of law. This is an appellant with a British partner and a British child.

Notice of Decision

Because I find that there is a material error of law in the First-Tier Judge's decision I direct that that decision is set aside. None of its findings are to stand other than as a record of what was said on that occasion. It is appropriate in terms of Section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to remit the case to the First-Tier Tribunal for an entirely fresh hearing.

The members of the First-Tier Tribunal chosen to consider the case are not to include First-Tier Tribunal Judge Geraint Jones.



Anonymity has not been directed.

Signed

Date 20 September 2018

Deputy Upper Tribunal Judge Murray