



**Upper Tribunal
(Immigration and Asylum Chamber)
UI-2022-006452**

Appeal Number:

HU/50577/2021

THE IMMIGRATION ACTS

**Heard at Field House
Decision & Reasons Issued:
On: 6 June 2023 On: 11 July 2023**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**MR KAPLESH KUMAR PATEL
(Anonymity direction not made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the appellant: Mr S Bukhari of Counsel

For the respondent: Mr Lindsay, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of India. He appealed to the First-tier Tribunal against the decision of the respondent dated 25 August 2020 to refuse to grant him leave to remain in the United Kingdom under paragraph 276ADE and Article 8 of the European Convention on Human Rights. First Tier Tribunal Judge KK Phull dismissed the appellant's appeal in a decision dated 13 May 2022.
2. Permission to appeal was granted by First-tier Tribunal Judge S Aziz on 6 July 2022 stating that it is arguable that the Judge erred by

failing to take into account the best interests of the appellant's child under section 55 of the Borders, Citizenship and Immigration Act 2009 or provide adequate reasons as to what weight the parent-child relationship carries in the assessment of Article 8 of the European Convention on Human Rights, proportionality exercise. The Judge acknowledges that the appellant has a child with whom he enjoys contact. Therefore failing to properly assess the child's best interests of the parent-child relationship within the context of appellant's Article 8 claim, there is arguably material error of law. Judge Aziz concluded that there is no merit in any of the other grounds of appeal.

3. At the hearing, it was accepted by the appellant that he does not have a child or have contact with a child in the United Kingdom. The appellant's counsel accepted that permission to appeal was granted on the sole basis that the First-tier Tribunal Judge had not considered the best interests of the child or analyse the parent-child relationship within the context of the appellant's Article 8 claim.
4. The appellant's counsel said that the appeal was to be withdrawn but the appellant's instructions are that the appeal be decided.
5. I find that as the appellant does not have contact with a child in the United Kingdom, there has been no error of law in the decision of the First-tier Tribunal Judge in respect of a non-existent child. The First Tier Tribunal Judge gave permission on the basis that the First-tier Tribunal Judge did not consider the best interests of the child in the assessment of the proportionality exercise within Article 8 of the European Convention on Human Rights. I find that there are no merits in the remaining grounds of appeal and none were argued before me.
6. The decision of the First-tier Tribunal Judge shall stand.

DECISION

The appellant's appeal is dismissed

I make no anonymity order

The appeal has been dismissed and no fee order can be made

Signed by

A Deputy Judge of the Upper Tribunal
Ms S Chana

Dated 25th day of June 2023