



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000350

HU/60427/2022

First-tier Tribunal:

THE IMMIGRATION ACTS

Decision & Reasons Issued:

11th March 2024

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Manpreet Singh
(no anonymity order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Spurling, Counsel instructed by Elaahi & Co
For the Respondent: Mr Tufan, Senior Home Office Presenting Officer

Heard at Field House on 6 March 2024

DECISION AND REASONS

1. The Appellant is a national of India born on the 22nd November 1988. He appeals with permission against the decision of the First-tier Tribunal (Judge Chana) to dismiss his appeal on human rights grounds.
2. The matter in issue before the First-tier Tribunal had been whether the decision to refuse the Appellant limited leave to remain in the UK amounted to an unjustified interference with the Appellant's family and private life, in particular his relationship with his British citizen wife who was at the date of the hearing pregnant with his child.
3. The Tribunal found the Respondent to have discharged the burden in showing that the decision was proportionate and dismissed the appeal.

4. Before me the parties are in agreement that in doing so the Tribunal erred in its approach such that the decision must be set aside. First, the Tribunal had failed to apply the Joint Presidential Guidance Note No 2 of 2010: *Child, vulnerable adult and sensitive appellant guidance* and make a findings on whether it accepted that the Sponsor (the Appellant's wife) was a vulnerable witness. This error infected both the procedural and substantive decision making. Second, the Tribunal had failed to address material evidence in its deliberations , including the Sponsor's ill health and pregnancy. Finally it was agreed that there was a procedural unfairness in that there had been a legitimate dispute about the accuracy of the interpretation at the hearing which had not satisfactorily been resolved. The parties invite me to set the decision aside and to remit the matter to the First-tier Tribunal for hearing *de novo*.

Decisions

5. The decision of the First-tier Tribunal is set aside.
6. The decision in the appeal is to be remade following a hearing *de novo* in the First-tier Tribunal by a Judge other than Judge Chana.
7. There is no order for anonymity.

Upper Tribunal Judge Bruce
Immigration and Asylum Chamber
6th March 2024