



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: OA/06657/2013

THE IMMIGRATION ACTS

Heard at Field House

On 27th August 2014

Determination

Promulgated

On 28th August 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

Entry Clearance Officer - Islamabad

Appellant

and

**Mrs Hira Hussain
(Anonymity Direction Not Made)**

Respondent

Representation:

For the Respondent: Mr Kandola, Home Office Presenting Officer.

For the Appellant: Mr Ahmed, instructed by Visawise Immigration Services

DECISION AND REASONS

1. The application for permission to appeal was made by the respondent but nonetheless I shall refer to the parties as they were described before the First Tier Tribunal.
2. The appellant is a citizen of Pakistan and born on 10th May 1994 and she appealed against a decision dated 14th February 2013 by the Entry Clearance Officer to refuse her entry clearance to join her spouse under Appendix FM.

3. On 23rd December 2013 First Tier Tribunal Judge Halliwell allowed the appellant's appeal both under the Immigration Rules and on Human Rights grounds.
4. Nearly six months later the Secretary of State on behalf of the Entry Clearance Officer made an application for permission to appeal, clearly marked as dated 4th June 2014, on the grounds that the judge had not considered Appendix FM-SE. The reason given for the application being out of time was 'almost unprecedented staff shortages' and as a result the deadline was missed.
5. First Tier Tribunal Judge McDade granted permission to appeal but failed to address the issue that the application was made out of time. In the meantime the appellant had been granted a visa valid from 25th March 2014 to 25th December 2016.
6. At the hearing before me Mr Ahmed submitted that the determination of Judge Halliwell should stand as the decision of Judge McDade dated 2nd July 2014 made no reference to the application for an extension of time. The time limit was in fact 22nd January 2014. Mr Kandola conceded that the visa had been granted and applied to withdraw.
7. The grant of permission to appeal was a conditional grant of permission as the issue of the time extension had not been considered, **Samir (FtT Permission to appeal: time)** [2013] UKUT 00003(IAC) and **Boktor and Wanis** [2011] UKUT 00442 (IAC).
8. I do not consider time should be extended. Mr Kandola, sensibly, had applied to withdraw the application for permission to appeal and I was not persuaded that lack of funds was an adequate explanation for a delay on behalf of the Secretary of State, of nearly six months during which time the appellant had been granted a visa **BO and others (extension of time for appealing) Nigeria** [2006] UKIAT 00035. Indeed the appellant presented herself at court.
9. Application for extension of time for permission to appeal is refused.

Signed

Date 27th August 2014

Deputy Upper Tribunal Judge Rimington