



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/11619/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 25 April 2016**

**Decision &**

**Promulgated**

**On 29 April 2016**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PEART**

**Between**

**MR JIBRAN KHAN**

**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**And**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Bellara of Counsel

For the Respondent: Ms Isherwood, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan. He was born on 10 April 1992. He appealed against the respondent's decision dated 12 March 2015 refusing his application for a residence card as confirmation of a right to reside here as the spouse of an EEA national. The appeal was allowed by Judge Majid (the judge) in a decision promulgated on 2 October 2015.
2. The respondent sought permission to appeal the judge's decision and submitted that he failed to take into account and or resolve conflicts of

fact or opinion on material matters and failed to give reasons or any adequate reasons for findings on material matters.

3. The respondent submitted that the judge failed to take into account and or resolve any of the discrepancies raised in the Reasons for Refusal Letter. Further, that the judge failed to engage with any of the reasons raised in the Reasons for Refusal Letter for finding that the marriage was one of convenience.
4. Further, the judge failed to provide any adequate reasons for allowing the appeal. He referred to largely immaterial matters and failed to provide adequate reasons why the appellant succeeded in showing that he met the requirements of the 2006 Regulations. See in particular [23] of the decision. There was an absence of reasoned evidence based on the findings. All the judge did was express simple bare statements that the appellant succeeded.
5. The respondent submitted that as a result of the issues identified above, the judge's findings were flawed. He failed to resolve the key conflicts in the evidence or even consider them. There was no consideration of the issues anywhere in his decision such that the respondent could not identify why it was that the judge found the appellant had addressed the concerns of the Secretary of State in terms of the reasons for refusal and how it was that the appellant had discharged the burden of proof to show that his marriage was not one of convenience.
6. Judge Astle granted permission to appeal on 21 March 2016. She found all grounds were arguable.

### **Submissions on Error of Law**

7. Ms Isherwood relied upon the grounds.
8. Mr Bellara submitted that if the judge had erred, the error was not material. He was entitled to come to his decision on the facts before him.

### **Conclusion on Error of Law**

9. It was incumbent upon the judge to consider and take into account the issues raised by the respondent in her Reasons for Refusal Letter dated 12 March 2015. **Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC)** at [14] reads:

*"We are not for a moment suggesting that judgments have to set out the entire interstices of the evidence presented or analyse every nuance between the parties. Far from it. Indeed, we should make it clear that it is generally unnecessary, unhelpful and unhealthy for First-tier Tribunal judgments to seek to rehearse every detail or issue raised in the case. This leads to judgments becoming overly long and confused. Further, it is not a proportionate approach to deciding cases. It is, however, necessary for First-tier Tribunal judges to identify and resolve the key conflicts in the evidence and explain in*

*clear and brief terms their reasons for preferring one case to the other so that the parties can understand why they have won or lost.”*

10. I find the judge wholly failed to engage with the issues and either gave no reasons or inadequate reasons for his decision. The respondent had set out in her refusal the issues with which she was concerned. The full interview had been transcribed and was before the judge, however, he failed to engage with the same.
11. In my view, none of the judge’s findings should stand. The respondent has shown errors of law in the decision such that it should be set aside and heard again de novo.

### **Notice of Decision**

The decision of the First-tier Tribunal contains errors of law, is set aside and shall be remitted to the First-tier to be heard again de novo.

No anonymity direction is made.

Signed

Date: 25 April 2016

Deputy Upper Tribunal Judge Peart