



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

HU/11490/2015;

HU/11494/2015;

HU/11499/2015

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 29 November 2017

**Decision & Reasons
Promulgated**

On 29 November 2017

Before

UPPER TRIBUNAL JUDGE BLUM

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**AMANDEEP [K], DALJIT [S], [GS]
(ANONYMITY DIRECTION NOT MADE)**

Respondents

Representation:

For the Appellant: Mr N Bramble, Senior Home Office Presenting Officer

For the Respondent: Mr P Samy, Solicitor, of Farni Javid Taylor Solicitors

DECISION AND REASONS

1. This is an appeal by the Secretary of State for the Home Department (Appellant) against a decision of Judge of the First-tier Tribunal Majid (the judge), promulgated on 3 March 2017 in which he allowed the appeals of Mrs Kaur, her husband and son (the Respondents) against

the Appellant's decision of 10 November 2015 refusing their human rights claims.

2. It is unnecessary for me to set out the basis of the human rights claims, or the Appellant's reasons for refusing those claims. This is because it is accepted by the Respondents, by way of their Rule 24 response, that the judge's determination is unsustainable. The Rule 24 response accepts that it is unclear whether the judge believed he was considering a matter under the EEA Regulations or the immigration rules, that the judge failed to set out the facts of the case, and that the judge failed to direct himself correctly in accordance with the law.
3. Even in the absence of the rule 24 response I would have independently reached the same conclusion. Despite the appeal being based exclusively on human rights grounds the judge, inexplicably, referred to the appeal as being one under the EEA Regulations. The judge clearly misdirected himself in respect of the best interests of the 3rd Respondent (a child), and failed to make any material findings. The decision is woefully inadequate and wholly unsustainable.
4. In these circumstances, and without any objection from either party, I indicated that the decision must be set aside and that it would be remitted back to the first-tier Tribunal for a fresh hearing, all issues, to be heard by a judge other than judge Majid.

Notice of Decision

The First-tier Tribunal's decision contains material legal errors. The case is remitted back to the First-tier Tribunal to be decided afresh by a judge other than judge of the First-tier Tribunal Majid.



29 November 2017

Signed

Date

Upper Tribunal Judge Blum