



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/32272/2015

THE IMMIGRATION ACTS

Heard at North Shields  
On 29 June 2018

Decision & Reasons Promulgated  
On 30 July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

MS SABRINA SALAM  
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Olly, Counsel.

For the Respondent: Mrs R Petterson, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant appealed against a decision of the Respondent refusing to extend her application for leave to remain as the dependant of her husband. That application was refused and she appealed. Following a hearing, and in a decision promulgated on 24 April 2017 Judge of the First-tier Tribunal Obhi, dismissed the Appellant's appeal on human rights grounds.
2. The Appellant sought permission to appeal and an application was granted by Judge of the First-tier Tribunal Andrew. Her reasons for so granting were: -
  - "1. The Appellant seeks permission to appeal, in time, against a decision of the First-tier Tribunal (Judge Obhi) promulgated on 24<sup>th</sup> April 2017 whereby it

dismissed the Appellant's appeal against the Secretary of State's decision to refuse to grant leave to remain.

2. It is arguable that in coming to her finding at paragraph 21 of the decision the Judge made a mistake of fact, which would lead to an arguable error of law, in that it is said in the Grounds the original documents were available for the Judge to see.
3. However, I find no arguable error in relation to Article 8. The Grounds are a disagreement with the Judge's findings, findings open to her on the evidence."

3. The Appellant then sought permission to appeal to the Upper Tribunal in respect of the Article 8 issue which was refused.

4. Thus, the appeal came before me today.

5. The appeal turns on whether a mistake of fact was made in relation to the Judge's consideration of original material that was available to her at the hearing. It is dealt with at paragraph 21 of the Judge's decision where, amongst other things, the Judge finds,

"None of the documents provided are originals and therefore it is impossible to tell whether the documents are genuine or not".

6. The thrust of the grounds seeking permission to appeal are that the Judge materially erred as the pertinent original documents were available at the hearing.

7. Ms Petterson agreed that such a material error of law existed and, in the circumstances, both representatives urged me to remit this appeal for a fresh fact-finding exercise. That is a course which I considered today to be a fair disposal.

### **Decision**

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge Obhi.

No anonymity direction is made.

Signed

Date 25 July 2018.

Deputy Upper Tribunal Judge Appleyard