



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

Appeal Numbers: HU/03929/2017
HU/03941/2017
HU/03949/2017

THE IMMIGRATION ACTS

**Heard at Bradford
On 20 November 2018**

**Decision & Reasons Promulgated
On 02 January 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

M S

S S

A S

(ANONYMITY DIRECTION MADE)

Respondents

Representation:

For the Appellant: Mr Diwnycz, a Senior Home Office Presenting Officer

For the Respondents: Mr Brown instructed by Arshed & Co Solicitors

DECISION AND REASONS

1. I shall refer to the Secretary of State as the respondent and to the respondents as the appellants (as they appeared respectively before the First-tier Tribunal). The appellants MS, SS and AS are citizens of Pakistan. They were born respectively in 1978, 1987 and 2009. The first and second appellants are husband and wife and they are the parents of the third

appellant. They appealed against the decision of the respondent dated 20 January 2017 refusing their application to remain in the United Kingdom on human rights grounds (Article 8 ECHR). They appeal to the First-tier Tribunal (Judge R S Drake) which, in a decision promulgated on 6 September 2017, allowed the appeals on human rights grounds. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. The decision of Judge Drake contains a typographical error at [2]. The applications made by the appellants which are the subject of this appeal was submitted to the Secretary of State on 11 November 2016 and not 10 November 2015. The third appellant was born on 12 July 2009 so had been continuously resident in the United Kingdom for a period of seven years prior to the submission of the application. Mr Diwnycz, who appeared for the Secretary of State, told me that grounds of appeal to the Upper Tribunal were inaccurate; the judge had acknowledged at the time of the application the third appellant had reached seven years of continuous residence. In the light of the true facts, Mr Diwnycz told me that he would make no submissions on behalf of the Secretary of State. I am aware that, in light both of the law and also the respondent's own policy, none of the appellants will be expected to leave the United Kingdom given the length of residence achieved continuously by the third appellant. Therefore, whilst acknowledging that the decision of Judge Drake is in parts problematic, the underlying law in this appeal is clear. Accordingly, the Secretary of State's appeal is dismissed.

Notice of Decision

This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 30 November 2018

Upper Tribunal Judge Lane