



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

Appeal Number: HU/12968/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 20 February 2019**

**Decision & Reasons Promulgated
On 27 February 2019**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

YAQOOT JAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**DECISION OF THE UPPER TRIBUNAL
PURSUANT TO RULE 40(3)(a) OF
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse leave to remain on human rights grounds. She is a citizen of Pakistan.
2. Permission to appeal was granted because the appellant said that the First-tier Judge had discouraged her from calling six witnesses who were present in Court and willing to testify, giving the impression that their evidence was not disputed, but then rejected the evidence when writing his decision. Mr Levine, Counsel in the First-tier Tribunal and at the Upper Tribunal hearing on 23 November 2018, confirms that account.
3. By an email dated 30 January 2019, Ms Pettersen, who represented the applicant before me on 23 November 2018, confirmed that having seen a witness statement from Mr Levine, the respondent was content that the

appropriate course was for the appeal to be remitted to the First-tier Tribunal for rehearing afresh.

4. Pursuant to rule 40(3) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), under paragraph 40(2)(a) of the Rules the Upper Tribunal is not required to provide written reasons for its decision, where the decision is made with the consent of the parties (rule 40(3)(a)). That is the case in relation to this decision.
5. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The decision in this appeal will be remade in the First-tier Tribunal.

Signed: [Judith A J C Gleeson](#)
February 2019
Upper Tribunal Judge Gleeson

Date: 20