



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/15028/2018**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 10 June 2019

**Decision &
Promulgated**

On 25 June 2019

Reasons

Before

**DISTRICT JUDGE MCGINTY SITTING AS A
DEPUTY UPPER TRIBUNAL JUDGE**

Between

**SAMEER SHAHABUDDIN SAMNANI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Roberts, Counsel instructed by Cromwell Wilkes
For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Manyarara promulgated on 21st February 2019. At the appeal hearing before the Upper Tribunal today the Appellant has been represented by Mr Roberts of Counsel, and the Secretary of State has been represented by Mr Bramble, Senior Home Office Presenting Officer.
2. Permission to appeal in this case has been granted by First-tier Tribunal Judge Andrew on 2nd May 2019, who found that it was arguable that the

judge did not refer to the correct date for consideration of the evidence before him.

3. I am grateful to the helpful submissions by both Mr Roberts and Mr Bramble.
4. Mr Bramble conceded that although the First-tier Tribunal had to look at it through the prism of the Immigration Rules as mandated by the Supreme Court in the case of **MM (Lebanon) v Secretary of State for the Home Department [2017] UKSC 10**, it also had to consider whether there are any compelling or exceptional circumstances outside of the Rules which may justify the appeal being granted and that as this is a human rights appeal under Section 85(5) of the Nationality, Immigration and Asylum Act 2002 as now worded, the Tribunal can consider evidence that postdates the Secretary of State's decision as the Tribunal had to consider the case as at the date of the hearing.
5. Mr Bramble on behalf of the Secretary of State concedes that the First-tier Tribunal should have taken account as to the evidence of the CT600 and the Sponsor's new employment in considering whether or not there was a breach of human rights for the purposes of Article 8 outside of the Rules. On that basis obviously he concedes that there is a material error of law I do therefore set aside the decision of First-tier Tribunal Judge Manyarara and remit the case back to the First-tier Tribunal for rehearing before any First-tier Tribunal Judge other than First-tier Tribunal Judge Manyarara. I do not have any up to date documentary evidence regarding the position today in order to be able to remake the decision and therefore the case is to be remitted.

Notice of Decision

6. The decision of the First-tier Tribunal Judge does contain a material error of law and is set aside and the case is to be remitted to the First-tier Tribunal and reheard before any First-tier Tribunal Judge other than First-tier Tribunal Judge Manyarara.
7. The First-tier Tribunal did not make an anonymity direction and therefore there will be no anonymity direction in this case.

Signed District Judge McGinty
2019

Date 23rd June

District Judge McGinty sitting as a
Deputy Upper Tribunal Judge