



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/03853/2020**

THE IMMIGRATION ACTS

**Heard at Field House
On 7 January 2022
Extempore**

**Decision & Reasons Promulgated
On 27 January 2022**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MR JAGMOHAN SINGH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Georget, Counsel instructed by LP Legal Services
For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against a decision of First-tier Tribunal Judge Ian Howard promulgated on 14 June 2021, dismissing his human rights appeal. The appellant is a citizen of India who, the judge found, is in a relationship akin to marriage and found that the appellant did not, however, meet the requirements of the Immigration Rules nor was he satisfied that removal was disproportionate in terms of Article 8.
2. Permission to appeal was granted on 12 October 2021, Judge Aziz noting that there was merit in ground 1 of the appeal, that the judge failed to have taken into account the psychiatric report of Dr Kashmiri before

making findings on the human rights appeal. The grant is not limited and there are challenges in effect to the whole of the decision.

3. By way of a response to the grant pursuant to Rule 24 the Secretary of State on 23 November 2021 said that she did not oppose the application for permission to appeal and invited the Tribunal to set aside the decision of the First-tier Tribunal and set the case down for rehearing. After discussion with both representatives it transpires first that the Secretary of State was not aware that the appellant was in a relationship akin to marriage and second that no thought appears to have been given by the parties or indeed the judge that Appendix FM and paragraphs EX.1 and EX.2 of the Immigration Rules ought to have been considered.
4. It is my preliminary view but not definitive that the relationship between the appellant and his partner would be a new matter for the purposes of Section 85 of the 2002 Act. In the light of this and in the light of the somewhat abrupt ending of the decision at paragraph 35, which begs the question of whether there are some more findings to be made. I consider that it is in all circumstances sensible to remit this decision to the First-tier Tribunal for a fresh decision to be reached.
5. Accordingly, for these reasons I am satisfied first that the decision of the First-tier Tribunal involved the making of an error of law affecting the outcome of the decision. Second, the appeal should be remitted to the First-tier Tribunal for a rehearing on all matters.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside.
2. I remit the appeal to the First-tier Tribunal to be heard again de novo; none of the findings are preserved.

Signed

Date 13 January 2022

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul