



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/0116/2013

THE IMMIGRATION ACTS

Heard at Bradford  
on 5<sup>th</sup> August 2013

Determination Promulgated  
on 6<sup>th</sup> August 2013

Before

UPPER TRIBUNAL JUDGE HANSON

Between

IRUM SHAHZADI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Al-Hassan instructed by Sheirs Solicitors.

For the Respondent: Mr Diwnycz – Senior Home Office Presenting Officer.

**DETERMINATION AND REASONS**

1. This is an appeal against a determination of First-tier Tribunal Judge Robson promulgated following a hearing at Bradford on 15<sup>th</sup> March 2013 in which he dismissed the appellant's appeal against the respondent's refusal to grant indefinite leave to remain outside the Immigration Rules.
2. As announced in court I find, through no fault of Judge Robson or the Presenting Officer, that I am satisfied there has been a procedural irregularity sufficient to amount to a material error of law. Accordingly the determination must be set aside with here being no preserved findings.
3. The grounds on which permission to appeal was sought refer to a number of failings by the appellant's previous representatives in their conduct of the matter; including advising the appellant the hearing before Judge Robson had been adjourned when no such order had been made. It was for this reason she failed to attend the hearing. The previous solicitors also failed to file documents

in support of the appeal which was why there was no such evidence before Judge Robson. The appellant's current solicitors wrote to the previous solicitors on 27<sup>th</sup> May 2013 setting out a number of issues of concern although no response has been received. It is understood a referral to the Legal Services Ombudsman alleging negligent practice is to follow.

4. The effect of the failings of the previous representatives has been to deny the appellant the opportunity to have her case properly considered by the tribunal. She was not told she had to attend to answer questions and no effort was made to obtain the documentary evidence relevant to the issues in her appeal.
5. I have considered the Senior Presidents Practice Statement relating to remitting appeals to the First-tier Tribunal and consider this is an appropriate case on the facts as the appellant has not yet had a fair hearing before that tribunal. It was accepted by both advocates that it was appropriate for the appeal to be remitted and accordingly the following directions shall apply:

- i. The determination is set aside with there being no preserved findings. The appeal shall be remitted to the First-tier Tribunal sitting at Bradford to be heard by salaried judge of that Tribunal at 10 AM on Monday, 4 November 2013 with a time estimate of 2 hours (appellant and two witnesses). The issues are limited to Article 8 ECHR only.
- ii. Further case management directions issued by the First-tier Tribunal appearing on the notice of hearing must be complied with.
- iii. An Urdu interpreter is required.

Anonymity.

6. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008) has no request was such an order was made and the grounds do not establish such an order is necessary.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 5<sup>th</sup> August 2013