



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/05881/2016

THE IMMIGRATION ACTS

Heard at Field House  
On 14 February 2018

Decision & Reasons Promulgated  
On 17 May 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**RAKHI RANI DASH**  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: Ms S Iqbal, Counsel instructed by Taj Solicitors  
For the Respondent: Mr D Clarke, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Mrs Dash against a decision of the Secretary of State refusing to grant her a residence card as an extended family member of her sponsor. The matter came before a judge in May 2017 and she concluded in light of Sala [2016] UKUT 00411 (IAC) that there was no statutory right of appeal against the decision to refuse to grant a residence card to an extended family member. We now know in light of the decision of the Court of Appeal in Khan [2017] EWCA Civ 1755 that Sala was wrong and there is a right of appeal in such a case and accordingly the judge, there is no criticism of her, she was simply following reported authority, erred in law and the matter will therefore require to be heard by a different judge at Hatton Cross.

**Notice of Decision**

The appeal is allowed to the extent that it is remitted for a full hearing in the First-tier Tribunal.

No anonymity direction is made.

A handwritten signature in black ink, appearing to be 'A. Allen', written in a cursive style.

Signed

Date 11 May 2018

Upper Tribunal Judge Allen