



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

Appeal Number: EA/12352/2016

THE IMMIGRATION ACTS

At Field House on the papers

On 18 September 2018

**Decision & Reasons
Promulgated**

On 17 October 2018

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

**MUHAMMAD AKMAL MUGHAL
(ANONYMITY DIRECTION NOT MADE)**

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

DIRECTIONS AND DECISION

Introduction

1. The appellant is a citizen of Pakistan born on 15 April 1978. He made an application to the Secretary of State for an EEA residence card. The application was refused in a decision dated 15 September 2016, for reasons that I need not set out herein.

Decision of the First-tier Tribunal

2. The appellant lodged an appeal before the First-tier Tribunal. That appeal came before FtT Judge S Taylor, who concluded in a decision sent on 26 September 2017, that the First-tier Tribunal did not have jurisdiction to determine the appeal. No findings were made in relation to the substance

of his appeal. The Judge's conclusion was informed by the guidance given by this Tribunal in Sala [2016] UKUT 00411.

3. The appellant appealed such decision to the Upper Tribunal and FtT Judge Lambert granted permission in a decision sent on 15 August 2018. Thus, the matter comes before me.

Discussion and Decision

4. In the light of Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755, the Court concluded that the Upper Tribunal had been wrong in its conclusion and rationale in Sala. It is not in dispute that the effect of the decision in Khan, if applied to this case, is that the First-tier Tribunal was wrong to conclude that it did not have jurisdiction in these appeals.
5. The Upper Tribunal is minded to find an error of law, set aside the decision of the First-tier Tribunal and remit the case to the First-tier Tribunal.
6. A party who is opposed to this course is directed to inform the Upper Tribunal in writing (giving reasons), not later than 7 days from the date this decision is sent by the Upper Tribunal.
7. If no party files any objections within this period, the decision of the First-tier Tribunal will be set aside and the appeal remitted back to the First-tier Tribunal to be heard afresh.

Signed:
2018

Dated: 18 September



Upper Tribunal Judge O'Connor