



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/04066/2017

THE IMMIGRATION ACTS

Heard at Field House
On: 10 August 2018

Decision and Reasons Promulgated
On: 03 September 2018

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

MRS KARIM ROSTAM CHIMAN
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Gherman of Counsel

For the respondent: Ms A Fijiwala, Senior Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Iraq, appealed against the decision of the respondent dated 21 February 2017, refusing to grant the appellant leave to remain in the United Kingdom under the five-year partner route pursuant to paragraph 276 ADE of the immigration rules. First-tier Tribunal Judge Richards-Clarke dismissed the appellant's appeal in a decision dated 2 February 2018.

2. Permission to appeal was granted by Designated First-tier Tribunal Judge Shaerf stating that it is arguable that the Judge erred by not taking into account the best interests of the appellant's children and the position of the appellant's older British citizen child by birth and whether it would be reasonable to expect the appellant's child to leave the United Kingdom, which child is referred to is made clear in the grounds.
3. At the hearing it was agreed by the parties that there has been a material error of law in the decision because the Judge did not take into account the appellant's children in respect of EX 1 (b) of the immigration rules and s55 of the Boarder's Citizenship Act and the appeal be sent back to the First-tier Tribunal.
4. I find that there has been a material error of law in the decision as the Judge has not fully made findings on the appellant's children's rights. Therefore, as it stands the decision is not safe and findings of fact need to be made on the evidence.
5. In the circumstances, I direct that the appeal be placed before any First-tier Tribunal Judge apart from first-tier Tribunal Judge Richards-Clarke for the appeal to be heard de novo.

Decision

Appeal remitted to the First-tier Tribunal

Signed by

A Deputy Judge of the Upper Tribunal

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Ms S Chana

Dated 23rd day of August 2018