



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

Appeal Number: EA/02817/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 9 April 2019**

**Decision Reasons Promulgated
On 11 April 2019**

Before:
UPPER TRIBUNAL JUDGE GILL

Between

Miss C A
(ANONYMITY ORDER MADE)

Appellant

And

The Secretary of State for the Home Department

Respondent

Anonymity

I make a direction under r.14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. No report of these proceedings shall directly or indirectly identify her. This direction applies to both the appellant and to the respondent and all other persons. Failure to comply with this direction could lead to contempt of court proceedings.

I make this direction because there are allegations of abuse by the appellant's ex-husband.

The parties at liberty to apply to discharge this order, with reasons.

Representation:

For the Appellant: Mr P Apraku, of Adam Bernard Solicitors.

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

1. By a decision served on the parties on 29 January 2019 following a hearing on 16 January 2019, I set aside the decision of Judge of the First-tier Tribunal Bird which dismissed the appeal of the appellant against a decision of the respondent of 5 March 2018 to refuse to issue her with a permanent residence card as confirmation that she

had a retained right of residence as the former spouse of Mr DMG, an EEA national exercising Treaty rights in the United Kingdom.

2. Having set the judge's decision aside, I gave directions, which included a direction to the respondent to undertake such enquires as he could reasonably undertake in order to establish whether Mr DMG was exercising Treaty rights from 22 June 2011 to 22 June 2016.
3. I also directed that the appeal be listed before me for a case management review.
4. The case management review hearing was listed before me on 9 April 2019.
5. At the hearing, Mr. Clarke advised me of the outcome of the respondent's enquires with the HMRC. He also confirmed that he had received the documentary evidence submitted by the appellant of her employment. He informed me that he was satisfied that the appellant had established that the period for which Mr DMG was exercising Treaty rights in the United Kingdom (from April 2014 to 22 June 2016) combined with the period of the appellant's employment from the date of her divorce (22 June 2016) to the date of the case management review hearing in April 2019 amounted to a period of 5 years. He therefore asked me to allow the appeal.
6. I allow the appeal for the reasons given above.

Decision

The decision of Judge of the First-tier Tribunal involved the making of an error of law sufficient to require it to be set aside. Her decision was set aside.

I re-make the decision on the appellant's appeal by allowing her appeal against the respondent's decision.



Signed
Upper Tribunal Judge Gill

Date: 9 April 2019