



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

Appeal Number: EA/02111/2020

THE IMMIGRATION ACTS

**Heard at Field House
On 2 August 2021**

**Decision & Reasons Promulgated
On 27 September 2021**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MUHAMMAD SHABBIR
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Akhtar, solicitor, Law Gate solicitors

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DECISION AND REASONS

The appellant appeals with permission against a decision by the First-tier Tribunal promulgated on 20 April 2021.

On 27 July 2021, I issued directions in this case which stated:

2. The respondent has in its rule 24 response accepted that the FtTJ erred as averred by the appellant. On that basis alone, it is my preliminary view that the decision of the First-tier Tribunal involved the making of an error of law, and must be set aside. It is also my preliminary view that the decision must be set aside and remitted to

the First-tier Tribunal for fresh findings of fact to be made. I therefore propose making a decision to that effect without the need for an oral hearing and without the need for the parties to attend on 2 August 2021.

3. Given that the appeal is listed for hearing on 2 August 2021, I direct that unless before 4.00pm on 30 July 2021 there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to determine the appeal without an oral hearing and will remit it to the First-tier Tribunal to be heard again by a judge other than Judge Dineen.
4. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed.
1. There was no response to the directions from the appellant or his solicitors.
2. Although the appellant's solicitor attempted to join the hearing, and could be seen online, it proved impossible to communicate with him, and he made no attempt to contact the Tribunal by telephone or email. In the circumstances, and in the light of the directions made, I am satisfied that it was in the interests of justice to proceed to determine the appeal.
3. In the light of the concession made by the respondent, which I consider was a proper concession, I am satisfied that the decision of the First-tier Tribunal did, for the reasons set out in the grounds of appeal, involve the making of an error of law and must be set aside. Given that the judge failed to make findings on the central issue of dependency, I consider that the only proper course of action is to remit the appeal to the First-tier Tribunal for a de novo appeal. None of the findings of the First-tier Tribunal are preserved.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside.
2. The appeal is remitted to the First-tier Tribunal for a fresh decision on all issues; none of the findings of the First-tier Tribunal are preserved.

Signed

Date 23 August 2021

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul