



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

Appeal Number: IA/23617/2013

THE IMMIGRATION ACTS

**Heard at Glasgow
on 8 April 2014**

**Determination
Promulgated
On 11th April 2014**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

MOHAMMAD MOBINUDDIN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr G A Dewar, Advocate, instructed by Burney Legal, Solicitors

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

No anonymity order requested or made

DETERMINATION AND REASONS

- 1) The appellant is a citizen of Pakistan, born on 19 July 1963. On 6 July 2012 he applied for indefinite leave to remain in the United Kingdom based on length of residence. The respondent refused his application by letter dated 28 May 2013. One of the main points of refusal was that the respondent did not accept that the appellant had been continuously resident in the United Kingdom for 14 years.
- 2) First-tier Tribunal Judge Balloch dismissed the appellant's appeal by determination promulgated on 13 January 2014. At paragraph 38, the judge accepted that the appellant had been resident in the United Kingdom for over 14 years. However, he failed to satisfy paragraph 276B(iv) (sufficient

knowledge of the English language and about life in the UK), not having sat and passed the relevant test.

- 3) The first point taken for the appellant in the Upper Tribunal is that paragraph 276A(i) and 276A(ii) permit an application to succeed on the basis of long residence without satisfying paragraph 276B(iv), to the extent that a period not exceeding 2 years of leave to remain (rather than indefinite leave to remain) may be granted.
- 4) Mr Mullen's attention having been directed to the relevant findings in the FtT determination and to the foregoing provisions of the Rules, he fairly and properly conceded that it followed that the appellant's appeal should have been allowed under the Rules.
- 5) The determination of the First-tier Tribunal is **set aside**. The following decision is substituted: under paragraphs 276A(i) and 276A(ii) of the Rules, the appeal is **allowed**.



10 April 2014
Judge of the Upper Tribunal