



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: HU/05360/2016  
HU/05362/2016  
HU/05366/2016  
HU/05370/2016

THE IMMIGRATION ACTS

Heard at Field House  
On 30 August 2018

Decisions & Reasons Promulgated  
On 12 September 2018

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

I H  
R H  
A H  
E H

(NO ANONYMITY ORDER)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr D Coleman, Counsel, instructed by Lee Valley Solicitors  
For the Respondent: Mr T Wilding, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellants are a mother and father and two minor children born in the United Kingdom. They appeal with permission against the decision of First-tier Tribunal Judge Devittie, who dismissed their appeal against the respondent's decision to refuse their application for leave to remain on human rights grounds both within and outwith the Immigration Rules.

2. The appellants are all Pakistani citizens. No member of this family is a British citizen or settled here. There is also a younger child, born in July 2018, who is not a party to these proceedings.
3. The appellants complain of a lack of reasoning, alternatively inadequate reasoning, in relation to paragraph 276ADE(vi) of the Immigration Rules HC 395 (as amended):

**“Requirements to be met by an applicant for leave to remain on the grounds of private life**

276ADE (1). The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:  
...

(iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; or

(vi) ... is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant’s integration into the country to which he would have to go if required to leave the United Kingdom.”

4. It is right that the respondent’s refusal letter dealt with paragraph 276ADE(vi), that is the question whether for the first and second appellants (who are the parents) there would be very significant obstacles to reintegration on return.
5. However, the decision of the First-tier Judge records at [6] that paragraph 276ADE(vi) was not relied upon and the absence of reasoning thereon is therefore neither surprising nor legally erroneous. At [6] of the decision the judge said this:

“6. It is common ground that the appellants cannot meet the family and private life requirements under Appendix FM. This appeal turns therefore on a consideration of whether the minor children of the first and second appellants can meet the requirements of paragraph 276ADE which provides materially that an applicant has to show that she:

‘(iv) is under the age of 18 years and has lived continuously in the UK for at least seven years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; ...’ ”

6. The judge considered carefully the reasonableness of expecting the third and fourth appellants, aged 5 and 2 years old, to leave the United Kingdom with their parents. He had regard to the best interests of the children pursuant to Section 55 of the 2009 Act and held that it would be in the best interests of the third and fourth appellants, all other things being equal, to be allowed to grow up and study in the United Kingdom, but that all things were not equal and it was not unreasonable to expect the third and fourth appellants to accompany their parents to Pakistan if they were

returned there. Neither child has any health problems and it is not suggested that Pakistan does not have an education system.

7. Even if paragraph 276ADE(vi) had been in issue before the First-tier Tribunal (which, having regard to [6] in the decision, it was not), the appellants could not have succeeded thereunder. Their arguments relied on an asserted difficulty for the principal appellant to find a job in Pakistan with the qualifications for which he was admitted to study in the United Kingdom. The principal appellant has spent a considerable amount of time and money achieving, among other qualifications, an MBA in Business Studies. It lacks credibility now to assert that, were he to return to Pakistan with the qualifications obtained here, the principal appellant would have gained no advantage in the labour market in Pakistan. There is no evidence from Pakistan to show that he has looked into the possibilities or to explain why the qualification which he thought it worth studying, no doubt at some expense, would be of no use to him on return.
8. The second appellant has had some mental health problems, for which she has received treatment in the United Kingdom. There was some evidence before the First-tier Tribunal, including a letter from Greenwich Mind dated 21 July 2016, to the effect that the wife was receiving counselling following trauma caused by an incident in Pakistan 'a couple of years ago' (so in 2014, presumably). The counselling evidence indicated that the wife was expected to make a good recovery from her trauma, and there is no up to date evidence about her mental health, nor, crucially, any evidence about the counselling and other treatment available in Pakistan should the wife require further support.
9. My primary finding is that paragraph 276ADE(vi) was not in issue so far as the parents were concerned. In the alternative, the evidence before the First-tier Tribunal did not show the existence of any very significant obstacles to the reintegration of the first and second appellants on their return to Pakistan with their three children.
10. For all the above reasons, this appeal is dismissed.

### Conclusions

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Signed: *Judith A J C Gleeson*  
Upper Tribunal Judge Gleeson

Date: 9 September 2018