



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

Appeal Number: HU/14824/2017

THE IMMIGRATION ACTS

**Heard at Bradford
On 24th June 2019**

**Decision & Reasons Promulgated
On 11th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**TAHIR [A]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Malik, HUMD Solicitors

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge O'Hanlon made following a hearing at Bradford on 24th April 2018.
2. He applied for leave to remain on the basis of his family and private life on 23rd March 2016 but was refused on 9th September 2016. Judge O'Hanlon dismissed his appeal. The appellant could not meet the requirements of the Immigration Rules. Judge O'Hanlon accepted that he enjoyed a family life with his son and that he had very regular contact with him. His son's mother has refugee status in the UK and there was realistically no

question of the appellant's son returning to Pakistan with him. Nevertheless Judge O'Hanlon considered that the decision to remove the appellant was proportionate.

3. This matter came before Judge Bagral on 28th September 2018. Judge Bagral set aside the decision of Judge O'Hanlon and listed the appeal to be resumed before her so that the parties could make submissions in relation to Section 117B(6) of the 2002 Act.
4. At the time of the hearing before Judge Bagral the appellant's son was not a qualifying child but by the date of the hearing before me, Mr Malik produced evidence that he had been granted British citizenship.
5. Mr Diwnycz said that he could not confirm the grant of citizenship from his own file, but assuming that the document shown by Mr Malik accords with Home Office records, he accepted that the child was a qualifying child and it would not be reasonable to expect him to leave the UK. He agreed in the circumstances that the appeal ought to be allowed. Accordingly, the Secretary of State's position is no longer that it is in the public interest for the appellant to be removed.

Decision

6. The original judge erred in law and his decision has been set aside. It is remade as follows. The appellant's appeal is allowed.

No anonymity direction is made.

Deborah Taylor

Signed

Date 2 July 2019

Deputy Upper Tribunal Judge Taylor