



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

Appeal Numbers: HU/18672/2016
HU/20140/2016
HU/20142/2016
HU/20143/2016
HU/20146/2016

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice Centre
On 15th January 2019**

**Decision & Reasons
Promulgated
On 13 February 2019**

Before

Upper Tribunal Judge Chalkley

Between

**F H (FIRST APPELLANT)
S H (SECOND APPELLANT)
A M A (THIRD APPELLANT)
M S A (FOURTH APPELLANT)
S A FIFTH APPELLANT)
(ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Ali of Counsel instructed by IAM Legal Services

For the Respondent: Ms Aboni, a Home Office Presenting Officer

Anonymity under Rule 13 of the Tribunal Procedure (First-tier Tribunal Immigration and Asylum Chamber) Rules 2014

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify him or them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

DECISION AND REASONS

1. The first appellant is a national of Pakistan born on 3rd September 1977. The second appellant was born on 23rd December 1978 and is the wife of the first named appellant. The third named appellant was born on 19th May 2008 and is now a British subject. The fourth appellant was born on 18th February 2010, the fifth appellant was born on 18th May 2012 and the last two appellants are citizens of Pakistan along with their parents, the first two appellants.
2. At the hearing before me today Ms Aboni told me that she and Mr Ali had already had the opportunity of discussing matters and it was accepted that there was an error on the part of the First-tier Tribunal Judge in that the judge failed to apply Home Office policy. I suspect that that may well have been because the Secretary of State also failed to follow Home Office policy.
3. The situation now is that one of the appellants has become registered as a British subject and, in accordance with Home Office policy, Ms Aboni told me all the appellants are entitled to have their appeals allowed. She invited me to prepare a short determination setting aside the determination of First-tier Tribunal Judge O'Brien promulgated on 5th September 2017 and to substitute his decision with my own allowing all the appeals. I am happy to do so.
4. The decision of First Tier Tribunal Judge O'Brien contains a material error of law and is hereby set aside. I substitute my decision for that of judge O'Brien. **All the appellant's appeals are allowed.**

Richard Chalkley
A judge of the Upper Tribunal

TO THE RESPONDENT
FEE AWARD

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make a fee award of any fee which has been paid or may be payable (adjusted where full award not justified) for the following reason.

Had the respondent followed Home Office guidance, the application would have been granted obviating the need for an appeal.

Richard Chalkley
A judge of the Upper Tribunal

31st January 2019