



JUDICIARY OF
ENGLAND AND WALES

MM (1), ABDUL MAJID (2), SHABANA JAVED (3)

-V-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

HIGH COURT (ADMINISTRATIVE COURT)

5 JULY 2013

EXECUTIVE SUMMARY TO ASSIST THE MEDIA

1. The Administrative Court has handed down its judgment in the case of MM, Majid and Javed today.
2. The claimants in this application were a refugee from Lebanon (MM) and two British citizens resident in the Birmingham area (Mr Majid and Ms Javed).
3. The claimants contended that the requirements of the amended immigration rules Appendix FM that came into force in July 2012 were unlawful on various grounds notably discrimination and interference with the right to respect for private life.
4. In their applications the claimants sought relief including quashing of the rules.
5. The defendant Secretary of State for the Home Department invited the court to dismiss the application as the requirements were lawful and any interference with the right to respect for family life was justified.
6. The court concluded that the rules were not unlawful on the basis of their discriminatory impact alone (113-114). Nor were they unlawful because of a conflict with the statutory duty to have regard to the best interests of children affected by immigration decision making (see paragraphs 31, 117-118).
7. Further the rules should not be quashed (paragraphs 120-121). The claim related only to British citizens and refugees, and the rules might represent a valid balance between the competing interests when applied to foreign nationals (that is to say those who were not British and had no rights under European Union law) who had voluntarily re-located to the United Kingdom (paragraph 96 and 97).
8. However the rules applied to foreign nationals, British citizens, and the spouses of refugees who married after entry to the United Kingdom.
9. British citizens were in a different class to foreigners generally as they had a constitutional right of residence in their own country as well as a human right to marry, found a family and have respect accorded to their family life. (Paragraphs 23, 100-103)

10. Refugees were in a different position from foreigners generally because they could not live in their country of origin as a result of a well founded fear of persecution (paragraph 99).
11. Applying the law as set out by the Supreme Court in the case of Quila [2011] UKSC 45, (see paragraphs 74 to 76) the question was whether the financial restrictions placed on those who wished to sponsor the admission of a spouse to the United Kingdom were proportionate, that is to say were an appropriate means of advancing the legitimate aim of safeguarding the economic welfare of the state, represented a fair balance of competing considerations, and were necessary in a democratic society because there were no less intrusive means of promoting the same aim.
12. The court noted that the combination of measures severely restricted the ability of sponsors on low incomes to bring their spouses to the United Kingdom to live with them (paragraph 107).
13. The court concluded (paragraph 123) that taking the minimum income of £18,600 along with one or more of four other requirements of the rules would amount to a disproportionate interference with family life (paragraph 124).
14. The other four requirements were:
 - i. The inability to supplement a shortfall in come with savings unless the savings were over £16,000.
 - ii. The inability to rely on proposes of future support form parents or other relatives; the inability of the couple to take into account the future earning capacity of the spouse during the 30 month period.
 - iii. The inability to take into account undertakings of future financial support.
 - iv. The inability of the couple to relay on the earning capacity of the spouse to meet the financial threshold during the 30 month period.
15. The reasons for concluding that the measures were disproportionate and there were less intrusive means of safeguarding the economic welfare of the United Kingdom are set out at paragraphs 126 to 147.
16. The court rejected the submission that the effect of these measures was sufficiently mitigated by the exercise of discretion in the Secretary of State to authorise departure from the rules in exceptional cases (paragraphs 149 to 153).
17. It was for the Secretary of State to decide whether any and if so what amendments to the rules were needed to satisfy the requirements of proportionality, (paragraph 14).

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This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document.