



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: HU/20398/2018**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 August 2021**

**Decision & Reasons Promulgated  
On 01 September 2021**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**RANGA RAO GUDURU  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr D Sellwood, Counsel instructed by Bindmans Solicitors  
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by a citizen of India who was born on 14 April 1940 and so now 81 years old, against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State on 24 September 2018 refusing him leave to remain on human rights grounds. I found that the First-tier Tribunal had erred in law and set aside the decision in a Reasons for Finding an Error of Law dated 28 May 2021. The decision had previously been decided unsatisfactorily and I decided that the appeal should be redetermined in the Upper Tribunal. It came before me on 24 August 2021.
2. I have been considerably assisted by a skeleton argument signed by Mr Sellwood on 23 August 2021. I have several documents in front of me; almost

all of them are incorporated into either the Appeal Bundle or the Supplementary Bundle and I am pleased to record that both bundles are organised and the pagination is sequential.

3. The respondent's Reasons for Refusal are dated 24 September 2018. It conveniently sets out the appellant's immigration history and I begin by considering that document.
4. This notes that the appellant entered the United Kingdom in July 2017 with entry clearance as a visitor valid until May 2018. On 7 January 2018, that is clearly within the currency of his leave, he applied for further leave to remain on the basis of his family and private life. The respondent noted, correctly, that this is not a marriage case. The appellant no longer has a life partner. He clearly did not qualify under the Rules unless he came within one of the exceptions created by the Rules. The respondent considered the possibility of there being "very significant obstacles" to the appellant's integration into life in India but noted that he had lived in India until he was 77 years old and the respondent did not accept that there would be significant, still less "very significant" obstacles to reintegration. The respondent did not accept that there was "family life" within the meaning of the Immigration Rules and, although accepting that the appellant had a son, daughter-in-law and grandson in the United Kingdom, did not accept that there was any special characteristic to the relationship that brought it within the Secretary of State's understanding of "family life".
5. The respondent did not take issue with the appellant's claim to be financially independent either because of his own resources, which were not inconsiderable, or because of the support of his family but said that the resources could be used to support him if he returned to India. The appellant had been able to organise treatment in India for his health problems and could do so again if treatment was needed. He did have relatives in India who could provide some sort of social network for him in the event of his return.
6. The appellant set out his case in a document dated 15 December 2017. I record the points in that letter that I consider the most pertinent.
7. The appellant explained that his wife died quite suddenly in March 2016 when she succumbed to Parkinson's disease. They had been married for 46 years and he explained that he "had no clue" about housekeeping and people described as the "full-time helps" taken on after his wife's death left his employment because they did not like working for him. His daughter-in-law and son travelled to India and helped him and he was much cheered by their presence and especially the presence of his grandson, Taran, then aged 5. He travelled with them when they returned "England" and he stayed with them for three months before returning to India. His grandson and daughter-in-law stayed with him for three months to help him re-establish himself before returning so that his grandson could start school in August 2016.
8. The appellant did not like living on his own which became evermore challenging as his hearing declined. It is a feature of the case that the appellant's hearing is poor. He said that he could not hear the doorbell and his part-time domestic helps either gave up trying to seek admission or went to

neighbours for intervention. A neighbour would help him, even sending a text message to get attention, but that was not a satisfactory arrangement.

9. He listed a series of ailments from which he suffered. None of them are unusual in a person of his years but they added to the difficulties he had in coping with life. He also found it difficult to managing his financial affairs, not because he could not understand his money but because he was not comfortable with technology. He described his knowledge of computers as “rudimentary”. He was frightened that he would fall victim to an internet scam because he did not understand normal procedures and therefore would not be alert to the abnormal.
10. He said that his son repeatedly asked the appellant to spend time with him in the United Kingdom but the appellant explained that when he arrived at Manchester airport in July 2017 he had a return ticket to Chennai for travel on 13 December 2017 that he intended to use. He had left his financial documents such as his passbooks, cheque books, debit card and pension details in his home in India. He said that he had “equipped myself with six months of travel medical insurance and return ticket”.
11. He said that his intention to return to India “melted like an ice cube” after five months of bonding with his grandson and he outlined many appropriate and happy dealings with his grandson including teaching him Telugu which he described as “our mother tongue”.
12. He had become increasingly dependent on his son who, with his daughter-in-law, cared for him. He said he was appreciative of his daughter-in-law’s support which was practical and encouraging. Near the end of his statement he said:

“Since my son is an ophthalmologist, when I die in his house, he is at hand to fulfil my last wish of donation of my eyes. My soul will have the satisfaction of giving sight to someone in England, the country which my son lovingly adopted as his own”.
13. I think I might be permitted the observation that this was, for me, a unique submission.
14. His son, daughter-in-law and grandson were clearly, on his account, very important to him and his wellbeing depended on them.
15. Additionally he had a younger brother in the United Kingdom and they spoke daily.
16. He made a statement dated 20 December 2018. There he confirmed that his son in the United Kingdom is his only child.
17. The appellant had suffered from heart disease since 1980. He had severe hearing loss and could not hear without hearing aids. He had developed cataracts which would need surgery.
18. He said a little more about his links to India. He said that many of his friends had died or moved away to live with their sons or daughters elsewhere. The appellant is one of eight siblings. His brother in Bangalore died “a long time ago”, his brother’s widow was in the care of one of her sons and they were short of money and could not help him. He had two brothers living in Australia.

He had another brother living in the United Kingdom. He spoke daily with that brother and visited him from time to time. He had a sister in Chennai but she died in December 2017. He had a nephew in Chennai who suffered from arthritis, was hard of hearing and diabetic and in the care of his wife. He was about an hour's travel distance away and he could not be expected to offer him support. He had two siblings living in India but both of them lived a long way from Chennai and were not able to support him at all. One brother was the father of his daughter-in-law but he was aged 77 and lived in Hyderabad which was about 600 kilometres from Chennai. The other, his youngest sister, is now aged 70. She is a widow and has learning difficulties and she had suffered from a major depression. He said that he had "no relatives in India who are either able or willing to help me".

19. He talked about domestic help he had obtained in India. He had employed a "part-time maid" who did about an hour's work every morning. He had never done any housework and felt he was too old to learn. He spent a long time on his own and became depressed.
20. He really did not want to displace the happy relationships he had developed in the United Kingdom with telephone calls or video conversations however frequent.
21. Presently his daughter-in-law accompanies him to medical appointments in the United Kingdom and "sorts out all my prescriptions" which he had not been able to do in India.
22. His son wanted to look after him because that was the tradition of the culture in which he was raised.
23. Paragraph 15 of the statement is particularly pertinent and I set it out below:
 

"I know that Kalyan [his son] feels so strongly about his duty to support and look after me that if I am unable to stay here he will return to India with me thus giving up his job as an ophthalmologist in the NHS. I do not think that Rama and Taran [daughter-in-law and grandson] would follow him. 7 year old Taran has lived in Bolton from birth. He loves his home and school. Bolton and its environs is his whole universe. Any attempt to transplant him would shatter him psychologically. It would be devastating for me to see a close-knit family separated in this way. I hate the idea of causing Kalyan, Rama and Taran such trouble and also causing the NHS to lose a precious ophthalmologist".
24. He insisted he was able to look after himself financially. He had been charged for using the health service in the United Kingdom and had paid his bills. He would not be able to get private health insurance unless he had permission to remain.
25. He made a supplementary statement dated 11 August 2021.
26. There he explained that he is particularly concerned about returning to India presently because he was frightened of the impact of COVID-19. He would be worried about obtaining domestic help because it would bring with it a risk of infection and he had been advised by his neighbours in India that domestic helpers were not allowed into the building, which had many floors, because of the fear of spreading infection.

27. He had mentioned in an early statement a neighbour who supported him but that neighbour had suffered from COVID and had been in hospital as an emergency case and was at the time of writing dependent on oxygen.
28. He gave evidence before me by adopting his statements. Ms Cunha wished to cross-examine him about his arrangements for healthcare in the United Kingdom. In the short time that the appellant gave evidence it was quite obvious that he is profoundly deaf and only assisted to a limited extent by his aids. He was able to explain that he did not have health insurance presently. He had had health insurance when he came as a visitor and extended that for a year but was not able to extend it beyond that. It was his intention to obtain health insurance in the United Kingdom if he had permission.
29. The appellant's son Mr Kalyan Venkatachala Guduru gave evidence before me. Mr Guduru is a surgeon and I apologise for my crassness in addressing him in the hearing room as "Dr Guduru".
30. He adopted statements made previously. He relied first on a letter dated 12 December 2017 which I now consider. Much of the statement is uncontroversial or of marginal relevance or repeats points made elsewhere. I have concentrated on the parts of the evidence that I consider important to the decision that I have to make and that are not supported or otherwise considered.
31. Mr Guduru confirmed that he is a British citizen and he has lived in the United Kingdom since 2003. He is married to a British citizen (also a US national) and their only child was born in October 2011 and so must now be approaching his 10<sup>th</sup> birthday. Mr Guduru is an ophthalmologist and surgeon working for the Bolton Hospital NHS Trust and also has a private practice.
32. His father, the appellant, had a career as a civil servant and his mother was a microbiologist.
33. The appellant suffered his first heart attack in 1981 when he was 40 years old. He had another heart attack in 1992 and underwent a coronary bypass graft surgery. Further similar surgery was done in 2000 after another "cardiac episode".
34. The appellant's wife suffered from Parkinson's disease and required carers in the latter stages of her life. As the appellant helped care for his wife he became increasingly withdrawn and housebound.
35. Mr Guduru with his wife and their child spent nearly five months in India with his parents in 2014 and in that time his son developed a close bond with the appellant and indeed the appellant's wife.
36. The appellant and his wife planned a visit to the United Kingdom in 2015 which the family hoped would give the appellant some respite from the demands created by the appellant's wife's declining health. Before they arrived the appellant was rushed to hospital with chest pains and Mr Guduru flew to India to give the necessary consent for treatment.
37. The appellant recovered sufficiently to travel to the United Kingdom and the visit was a success.

38. Mr Guduru emphasised how his son's relationship developed with the appellant and became increasingly important to the child.
39. The appellant and his wife returned to India in accordance with their obligations under their visa and Mr Guduru with his wife and son accompanied them to Chennai in November 2015 and spent a month there organising a house and arranging carers.
40. In January 2016 the appellant's wife had a heart attack. She recovered sufficiently to be discharged from hospital but in March 2016 she died.
41. Mr Guduru travelled to India to support the appellant. The appellant returned to the United Kingdom with him and stayed for two months before returning to India in the company of Mr Guduru and his family.
42. The appellant really had no housekeeping skills and a maid was found.
43. The appellant was also becoming isolated because of his increasing deafness so that he frequently did not hear knocks on the door or the telephone.
44. Although the appellant put on a brave face Mr Guduru was firmly of the view that he was not managing and was worried about him.
45. He knew that his father's financial circumstances were secure but he had not taken to managing the internet and phishing and similar scams are endemic in India making it very difficult for a person apprehensive of the internet to develop necessary skills.
46. Mr Guduru also noticed that the appellant was beginning to lose his memory. For example, he had left a side door unlocked on many occasions and appeared to forget quite detailed conversations. Mr Guduru said:

"This is hopefully just part of the aging process but is worrying for us when my father is living alone halfway round the world with no family support, cannot hear properly and has a history of heart problems."
47. He went on to say that he and his wife decided that the appellant should live with them in the United Kingdom where they can give him emotional and practical support. Now that their son had started school it was no longer practical for his wife to spend long periods with the appellant in India.
48. He also explained that his son found it hard to understand why his grandfather, the appellant, could not live with them. He explained again how his son and father had a very close bond.
49. He explained how the appellant was accommodated in the family home in the United Kingdom where he had his own bedroom and bathroom on the ground floor and how his general condition had changed for the better because he was being supported. It was also easier to keep in contact with his brother in the United Kingdom.
50. It disturbed him that he was not able to provide his father with the kind of support that he frequently saw provided by the family of patients who consulted him as an ophthalmologist.
51. He concluded the letter with a paragraph beginning:

“The presence of my father here completes my family and fills a gnawing hole not only in my life but also in that of my wife and son as well as, most importantly, ensuring my father’s welfare”.

52. Mr Guduru made a statement dated 20 December 2018. Much of the statement repeats things said in the letter but the statement emphasises the special bond between the appellant’s grandson and the appellant. It also emphasised Mr Guduru’s concern about his father’s health and gave an example of an occasion when his father collapsed and needed emergency hospital treatment. He wondered how the appellant would have managed if he had been on his own in India.
53. He explained how the appellant’s remaining relatives in India were no longer able to offer him any kind of support because of their own infirmity and he emphasised the cultural tradition in which he was raised, and which he respected, that a son supported his parents in their old age.
54. At paragraph 19 he introduces the idea of going to India with the appellant if he is not allowed to remain. In this statement it is somewhat hypothetical. He recorded “I will feel obliged to return to India with him” rather than a clear and settled declaration that that is what would happen but he pointed out that removing to India would be a significant sacrifice on his part because it would damage his career in the United Kingdom. It would also be very difficult in his own family because he did not want to remove his son from the United Kingdom education system or indeed the United Kingdom where he is settled.
55. He emphasised that there was not a tradition of caring for the elderly outside the family in India. This meant that people who provided that kind of care were not supervised and did not always exhibit professional standards but rather were often associated with exploitation or rank dishonesty. He had looked at retirement homes in Chennai but found nothing suitable. To live at such a place would require the appellant to remove to a different part of Chennai where he would have no contacts and where access to emergency medical treatment would be difficult because of the distances involved.
56. He emphasised that his father is in good circumstances financially but he would support his father if that became necessary and he would give any undertaking to that effect.
57. He made a supplementary statement dated 12 August 2021. There he explained that his father’s health was deteriorating. He was subject to infections and was becoming more forgetful and so could not be relied upon to organise his medications or keep appointments.
58. He also expressed the view that it would be particularly difficult for his father to return to India because of a risk of COVID infection even though his father was fully vaccinated. He explained how in India transport services and many restaurants’ delivery services had shut down because of the risk of infection and his father would be very isolated with the obvious risks to his mental health.
59. His father had been assisted by cataract surgery in the United Kingdom which would not have been practically available in India because of COVID restrictions. Clearly further cataract replacement is unlikely but he said that the

scenario indicated the kind of the additional difficulty that the appellant would face in India.

60. He explained that his aunt, that is the appellant's sister, had died in 2019.
61. He then explained how the relationship between his son and his father was becoming even stronger to the point that he believed it would be like a bereavement for his son if his grandfather left.
62. He had explained how the appellant had become more lonely as he contemplated return to India and, in Mr Guduru's opinion, ever less able to cope.
63. At paragraph 10 he had "firmed up his position" on removing and said:

"For all of these reasons, if my father is required to India I will accompany him and stay there with him because I am too afraid of what would happen to him if he goes back alone. My wife Rama and my son Taran would remain in the UK and so our family would be separated".
64. He then went on to make the secondary but important point that his skills as an ophthalmologist are rare in the health service and that if he were required to leave his post there would be significant additional hardship in providing important medical services in the United Kingdom.
65. He concluded that statement by explaining that he did not consider it fair for his son to leave the United Kingdom and establish himself elsewhere and particularly not in India where he would need to learn a new language before there was any chance of establishing himself in schools.
66. Mr Guduru gave oral evidence. He adopted his statements and in response to additional questions explained that when his father last came to the United Kingdom he had the benefit of health insurance which was extended for the maximum time permitted but it could not be further extended "from India" and was not available in the United Kingdom because the appellant was not settled.
67. He emphasised that the costs that had been incurred by the health service had been paid and that there was funding to ensure that any further likely bills would be paid.
68. Ms Cunha cross-examined on this point briefly but the answers confirmed rather than undermined the evidence. He accepted that taking an unfunded person and making them a burden on the health service was unacceptable because of the huge pressures on the health service presently if for no other reason.
69. No further oral evidence was called.
70. Ms Cunha confirmed that she did not challenge any of the evidence. I make it plain that the evidence had been disclosed well in advance of the hearing and Ms Cunha's decision was considered and entirely understandable given the detailed and extensive evidence set out in the statements and the supporting documentation. It was a matter for her but I can understand why she concluded that there really was no sensible basis for suggesting that the witnesses were anything other than truthful.

71. The appellant's daughter-in-law, Rama Guduru made a statement dated 20 December 2018. She emphasised the special relationship between the appellant and his grandson.
72. She also explained how she dealt with all of the appellant's financial affairs including managing his bank accounts and investments because the appellant struggled with the internet and particularly with retaining passwords.
73. She explained how he was confused by his mobile phone. He received misleading and fraudulent texts and that troubled him. She kept an eye on the messages to make sure that he had not missed anything that mattered.
74. She provided practical care for him. For example, she prompted him to wear his hearing aids and made sure that his mobile phone was fully charged.
75. She noted a deterioration in his memory which impacted on his personal organisation.
76. He had been diagnosed as suffering from Type 2 diabetes. It was managed by controlling his diet. She had attended a consultation with him and she had found that he had not been able to retain the advice that he had been given.
77. She gave other examples of how she helped him and she referred to the strong cultural obligation felt by her husband to support the appellant, his father, and, in her statement of December 2018 recorded how he felt that he would have to "uproot himself from his life here and return to India with his father to care for him there". This would split the family and cause distress.
78. She emphasised that the appellant was financially self-sufficient.
79. She made a supplementary statement dated 29 October 2019. There she referred to the appellant "slowing down" and losing confidence on his own. She illustrated this by saying how he would still attend a table tennis club, travelling by taxi when necessary but "we put him in an Uber" and he was met at the end of his journey. She doubted his ability to organise a taxi or pay a fare.
80. She emphasised how he could not manage to renew his medications and she had taken on that responsibility.
81. She returned to the theme of unhelpful messages on his Indian mobile phone and said how he was "getting increasingly frazzled and agitated" by such things.
82. She emphasised how Taran became unsettled even if his grandfather was away for only a short time.
83. She explained how there was no family support in Chennai.
84. When she had visited Chennai in 2019 she had spoken to the appellant's neighbour who had previously assisted him and he had explained how he could not provide the support he used to provide because his own circumstances were changed and he was away from home for extended periods.
85. She made a supplementary statement dated 11 August 2021. There she explained that since September 2020 she had worked full-time as part of a diabetic eye screening programme. Most of the work was done from home and

that had enabled her to continue to assist the appellant. She explained how he was more dependent than before on her organisational skills to manage his medications and medical appointments and she also encouraged him to eat properly.

86. His contact with his brother in London had been frustrated by COVID restrictions but he had managed to see him recently and this cheered him.
87. She had become closer to the appellant by reason of their living together.
88. She repeated how the appellant's return to India would involve her husband going to India and that this would be a big strain.
89. As well as the emotional support her husband provided her and their son she had health problems which would be much harder to manage if there was no other adult in the house to assist.
90. She could not contemplate removing to India mainly because that was not in her son's interests.
91. The appellant's brother Dr Guduru Gopal Rao OBE had written a letter dated 15 December 2017 and made statements dated 20 December 2018 and 12 August 2021. Dr Rao is a medical practitioner and his qualifications include Doctor of Medicine and Fellowship of the Royal College of Pathologists. He works, or has worked, as a consultant microbiologist in the National Health Service.
92. In the letter of 15 December 2017 Dr Rao recorded his "dismay" when he visited the appellant after he had been widowed. He found that he was ill with respiratory and cardiac diseases and unable to take care of himself and that he was lonely, "forlorn and depressed".
93. He also recorded his pleasure in the special relationship that developed between the appellant and his grandson in Bolton. He expressed the view that the appellant's health would deteriorate if he went to live on his own in Chennai.
94. In his statement of December 2018 he talked about relationships within the family and reiterated the poor state the appellant presented when he lived on his own and how different he was in the United Kingdom.
95. He was aware of the appellant's son's plans to accompany his father in the event of return to India and described this as "hugely disruptive" for the family and also how it would be "an enormous loss to the NHS" to be deprived of the appellant's son's skills.
96. In a supplementary statement dated 12 August 2021 he makes essentially the same points and expressed an even higher degree of confidence in the detrimental effect on the appellant's health in the event of his return without his son and the unavailability of any family support in India.
97. He also explained how COVID had caused significant problems in India and how reports suggested the number of deaths had been grossly underreported and the true figure may be ten times higher than that acknowledged. There were reports of the health service failing because it was overloaded with the pandemic victims.

98. There is an unsigned statement from one Deborah Kelly, a neighbour of the appellant's in Bolton. This statement is not signed and says nothing of significance that is not said elsewhere. I give it minimum value but I have read it. There is a signed letter from a Dr Thiagarajan Swaminathan. He is a general medical practitioner in North Yorkshire and knows the appellant and his son. It is a short supportive letter making points that have been made elsewhere. There are financial documents giving support to the evidence that the appellant has means and that his family is in a position to support him if those means fail.
99. There are two supporting documents from the appellant's grandson, Taran. They are both written in childish handwriting although I note the more recent one is considerably neater than anything I could produce and the register suggests to me that it is the child's own views that are being expressed. Plainly he was encouraged to write the letters. I do not see how else they would have been written but they are each about things that Taran and the appellant do together and the warmth of their relationship.
100. There is other material about Taran that I have read. He has not been inappropriately involved in proceedings. He is not pleading for a particular position but he is explaining clearly why and how much he likes his grandfather.
101. There are letters from family members in India supporting the contention that they are really in no position to help the appellant in the event of his return.
102. I am particularly interested in letters from the appellant's son's employer. There is a letter dated 6 December 2018 from Dr Jackie Bene OBE who is the chief executive of the Bolton National Health Service Foundation Trust. Dr Bene recorded in December 2018 that the appellant's son was contemplating going to India to support the appellant. She describes him as "a very valued and skilled member of the eye department here". She went on to say that there was a "significant shortage of trained ophthalmic surgeons in the UK" and she was clearly keen to keep the appellant's son's skills in the health service rather than in India.
103. There is an undated supporting letter from "18 Week Support Ophthalmology" which I understand to be extra work done by the appellant's son arranging "out of hours appointments" to ensure cases are processed more quickly and that consultations are available for people who cannot or cannot easily attend during ordinary working hours. This concludes with a comment that Dr Guduru's departure would be "a great loss" to 18 Week Support and its many patients.
104. There is a letter dated 20 December 2018 from Mrs C Inkster, a consultant oculoplastic surgeon and ophthalmic clinical lead at the Bolton NHS Foundation Trust. This describes Mr Guduru as "a highly valued member of our senior medical team" and that he "is genuinely irreplaceable". She explained that the Trust had been "unsuccessful in recruiting in the area of his expertise" and continues "I would go as far as to say that losing him from our department would put patients at risk from potentially treatable, sight threatening retinal disorders". She also described Mr Guduru as an excellent teacher. She wanted him to remain to "continue providing excellent care to the people of Bolton". I

note too evidence from medical professional magazines referring to shortages in the supply of ophthalmologists. There is a further letter dated 11 November 2019 from Mrs C Inkster, confirming that there is still a shortage of people with Mr Guduru's clinical skills and "we would struggle to replace him if he had to leave his position".

105. I have also seen evidence about the location of care homes in India which adds substance to Mr Guduru's evidence.

106. There is a social worker's report from Christine Brown, described as an independent social worker, dated 18 January 2017. Ms Brown qualified in social work in 1986 and is experienced primarily in the field of childcare.

107. Ms Brown's report looks at family relationships particularly from the appellant's perspective but also with regard to Taran and she is clearly satisfied there is a particularly close relationship between the appellant and his grandson. She concludes at paragraph 5.18:

"[The appellant's] leaving would also mean that Taran has lost the only close extended family member with whom he has a close relationship, and whose addition to the family unit has made the familial grouping complete for Taran. To lose his grandfather from his life at this juncture would, in many ways, appear akin to bereavement. For Taran, there would be the additional knowledge, as he grew older, of the lonely and isolated circumstances in which his grandfather would be living, only adding to Taran's distress and sense of deep loss".

108. There is an update to Christine Brown's report dated 15 November 2019. This report comments on the strong cultural expectation in India that elderly people are looked after by their children and their families and not in some kind of home. Ms Brown expressed her concerns about the appellant's ability to manage without support outside the United Kingdom. She also commented on the benefits to Taran of the close and "unique" relationship with his grandfather. "It reinforces his childhood experiences and development".

109. There is also an independent social worker's report dated 10 August 2021 prepared by Amanda De Leon Capdesuner. Ms De Leon Capdesuner has 25 years' experience in social work and appropriate professional qualifications.

110. This report also comments appreciatively of the strong relationship between the appellant and his grandson. At paragraph 9.2 it is described as "a beautiful relationship which evidenced a strong attunement to each other". I note particularly paragraph 9.17 where it is recorded:

"I asked Taran what he would like the judge to know and his whole-body language changed, and he became quieter and looked sad. Taran stated 'taking away my grandad is like splitting up my family. There would be no one to play with and holidays would not be as much fun. There would be no one to do anything with if you take away my grandad'".

111. The report makes plain that Taran enjoys a healthy relationship with both his parents. The appellant is not a substitute parent but an additional and important member of the nuclear family.

112. At paragraph 9.35 the report states:

“Should [the appellant] be removed from the UK, this will have devastating effect on Taran’s emotional wellbeing and sense of identity due to the level of attunement and attachment he has with his grandfather.”

113. Paragraph 11.2 of the report confirms the appellant’s son reported an intention to return with the appellant to India if the appellant had to leave.
114. At paragraph 11.37 the report notes, perhaps unremarkably, that removal of the appellant’s son would impact adversely on Taran by breaking up the relationship between son and father. At paragraph 14.13 the report expresses wholly appropriate and predictable concerns about the effect on Taran if his father removed to India. In addition to the obvious difficulties to do with loss of contact with his father the report postulates concern about the child Taran becoming a young carer for his mother who has health conditions that I have not found necessary to do more than outline but that concern is noted.
115. Section 15 of the supplementary bundle index contains information about the management of the COVID crisis in India. It includes a letter from a doctor Professor Deepak Rosha dated 5 July 2021 saying that the “COVID-19 pandemic has not been controlled in Chennai and furthermore, there is a serious threat of a ‘third wave’ of the infection due to the emergence of the Delta Plus variant in many parts of India”.
116. The same letter refers to health services being “severely stretched” and oxygen supply still being limited and generally suggesting that the appellant’s return would be “inadvisable”.
117. There is a similar letter from a Dr Ajay Sharma dated 10 August 2021. Dr Sharma is identified as an attending consultant in the emergency department and he writes from the Asian Institute of Medical Sciences. Dr Sharma refers to shortages causing real difficulties for elderly people who sometimes have been refused beds and other life-saving essentials. This was not a particularly rare event and was a consequence of a sudden demand for limited resources. The letter concluded by saying: “Senior citizens are at great risk due to age related problems and lack of medical support”.
118. There is also a UK government publication generally advising against travel to India and an editorial from The Lancet magazine dated 8 May 2021 criticising the management of the crisis by the Indian government.
119. I confirm that I have considered all of the documents before me although I have not commented on every item.
120. This is a case where I find I have been told the truth. Not only was the evidence not challenged which makes it hard to come to a contrary finding, it is a case where the evidence has been exceptionally well prepared and considered and laid out and there was no proper basis for challenging the gist of the evidence as given.
121. I have considered carefully Mr Sellwood’s “appellant’s updated skeleton argument” dated 23 August 2021.
122. Cases of this kind are not infrequently heard before the Tribunal and are often troubling. There is an obvious tension between the Rules which, broadly, do nothing to encourage people who enter the United Kingdom as visitors to stay

in any other capacity and certainly not to settle and the very natural desire, perhaps particularly strongly felt in people raised in the culture of the Asian subcontinent, for children in their adult life to look after their aging parents. I must be careful not to be lured into the role of writing the Immigration Rules or ignoring the will of Parliament expressed in the Rules.

123. However, certain things follow. Clearly the appellant has established a significant private and family life in the United Kingdom. I am not satisfied that he came to the United Kingdom most recently intending to remain. The fact that he had a return ticket does not prove a contrary intention but it is something to consider. He was managing on his own, albeit in a way that worried his family and whilst I find that they did not want him to return he did not come with the intention of remaining. He intended to return in accordance with his visa as he had done before.
124. The private and family life he has in the United Kingdom includes considerable emotional and practical dependency upon his son and daughter-in-law who are providing him with a home. It is clear that when he did live on his own after many years of marriage, and a marriage where his wife had played a traditional housewifely role, he was struggling to cope. No doubt he was lonely and grieving and had no experience in running a home. He has no close family in India. I am entirely satisfied that although he has a few relatives remaining they all have obligations of their own and although none of them wish him any harm they live some distance away and have no ability to provide any meaningful support. Any suggestion to the contrary is pure speculation that is contrary to the evidence.
125. I am also satisfied that the appellant has established a significant relationship with his grandson. Relationships between grandchildren and their grandparents vary greatly in families and depends on circumstances. They can be enriching and healthy and still be a lot less significant than the relationship that has developed. Taran is the appellant's only grandchild and I accept the evidence that the grandchild and appellant get on particularly well. It is not a parental role and should not be treated as if it were. I cannot accept that separating the appellant from his grandchild would be as serious as bereavement which is not quite what the social worker's report said. It would be a very significant disruption in a relationship which is enriching.
126. I also accept that the appellant has significant means of his own and his family have means to support him if those funds are inadequate. It is entirely clear that he has made use of the health service and has paid his bills responsibly. There is no basis whatsoever for suspecting that this is a person who has come to "milk the system". He would prefer to be with his family in the United Kingdom and they want to be with him. I accept that he has a meaningful relationship with his brother in London. I do not regard this as "family life" in the sense that it is a relationship over and above the ordinary relationship between adults who are related where there is an element of dependency that transforms its significance. It is nevertheless an important relationship and which can prosper in the United Kingdom in a way that it could not if the appellant did not live there.

127. I do not consider how the appellant might cope on his own in India because the evidence is that he would not go on his own to India. The evidence is that the appellant's son would separate physically (certainly not emotionally) from his family in the United Kingdom and support his father. This is quite a claim to make and is not one that should be accepted lightly. However, there is very clear evidence of the family in the United Kingdom showing considerable concern for the appellant. Not only did the appellant's son try hard to get to India to see his mother in what proved to be her last illness but he and his wife supported the appellant in the appellant's own home in Chennai.
128. The claim that the appellant's son would leave the United Kingdom and go with his father is bolstered by the evidence that the appellant's son and daughter-in-law had given considerable time to supporting him. It is also bolstered by the evidence that there is a very strong sense of cultural obligation to support the elderly relative and the fact that the appellant and his son have taken steps to investigate other routes.
129. The evidence about the suitability of alternative care homes in India was equivocal.
130. The appellant has led little evidence to show that the possible nursing homes in India would be unsuitable for him except by reason of requiring him to move to a different area but as it is essentially his case that he has no friends or contacts in his home area anymore that point loses force. The point is not whether the appellant's physical needs including his organisational needs, could be met in India. The point is that the appellant's family feel so strongly about their desire and cultural obligation (the points are not unconnected) that they have decided that if there is no other way the appellant's son will travel to India with him.
131. It is not a case where the appellant's more serious medical needs could not be met. He has the funds and access to the health system in India and has benefited from it including benefiting from significant surgery. It is not the case that his health would collapse. The point is that he needs day-to-day support and assistance of a kind that his family in the United Kingdom, particularly his daughter-in-law, are keen to provide. I find it inherently likely that he could probably do a little more to help himself if he was forced to do more for himself but I accept the evidence that he has little practise in running a home and, and with respect because he is certainly not a person incapable in law of making decisions, he is finding a tendency to become forgetful which reflects on his personal organisation skills which makes it much harder for him to manage on his own in India.
132. Nevertheless, this is not a case where there are very significant obstacles in the way of integration in India because circumstances that might (I put it no higher than that) lead to such a conclusion do not arise. The appellant would not be going on his own to India. He would be going with his son who will assist him.
133. I do not accept that it is unlawful to send somebody to India because of the management of the Corona crisis or the dangers that it presents. It is difficult to get a clear overview of the risks facing anyone in a particular part of India. It is quite plain that the country is infected with the disease, as is most of the

west of the world, and it is quite plain that India has not performed as well as some countries in arranging vaccinations or generally managing the crisis. Of course, it is best in the short term that the appellant does not go to India. That is clearly the advice that would be given any competent medical practitioner concerned for him but that is not the same as saying he could not go as a matter of law. He would go with the benefit of vaccination which offers a degree of protection and, much more importantly, he would go with the benefit of a supporting son. Any suggestion that he cannot go to India is misconceived on the particular facts of this case.

134. It is clear that the relationship between the grandson and the grandfather are particularly strong. It is plain that the appellant's removal would be contrary to the best interests of his grandson. His best interests lie in his grandfather staying in the United Kingdom where they can continue to enjoy each other and enrich each other's lives.
135. It is therefore plain that removing the appellant would interfere with his private and family life and the private and family life of his son and daughter-in-law and grandson.
136. I have to balance these things against the public interest in removing the appellant.
137. I then ask what proper purpose such removal would fulfil. Here Ms Cunha assisted the appellant significantly. She said that the public interest lay in preserving the assets of the health service and not letting the appellant be a burden on the state and she could not argue on the evidence that there was any such risk in this case and she said that the appeal ought to be allowed. I agree with her that any argument based on the appellant becoming a burden on the United Kingdom cannot succeed. He has the means and has shown that he has the sense of responsibility to prevent that happening.
138. It follows that when I look at the proportionality of the decision I have to weigh the public interest against the particular facts of the case. The particular facts of the case are that there would be considerable deprivation to the life of the appellant's grandson because his grandfather would go, but there would also be considerable deprivation to the life of the grandson and the mother because the father would go. Clearly the appellant's son is not going to end his marriage. This family are obviously committed to each other and have a strong sense of family responsibility but they all want to live as a nuclear family and if the appellant has to leave the United Kingdom that cannot happen.
139. It would be a big jolt to manage in the long term without the appellant's son's presence and would clearly impact on the appellant's grandson. The appellant's son has had to balance different competing senses of responsibility and has reached the conclusion that he has.
140. I also accept that the appellant's son has a significant job in the health service that would be hard to replace. The evidence is plain that his medical speciality is undersupplied and he could not be replaced. No doubt arrangements would be made. Advertisements would be placed and work would be shuffled but it is quite plain that there would be significant disruption to important healthcare to a large number of people if the appellant's son left the country. All that is left is

the theoretical public interest in preserving public funds which Ms Cunha says is not in issue in this case. This appeal has been conceded by the Secretary of State and I allow the appeal.

141. It is, I think, apparent from the above that I have considered the rules and found that the appellant does not satisfy them.
142. I have had regard to Part 5A of the Nationality, Immigration and Asylum Act 2002. I am concerned with family rather than private life when I consider the relationship between the appellant and his relatives in the United Kingdom. The relationship is closer than ordinary family bonds and is characterised by considerable emotional dependency between the appellant and his son, his daughter-in-law and his grandson. The appellant has never been in the United Kingdom unlawfully. Nevertheless I do not give these relationships as much weight as I would to relationships between life partners and parents and small children. Clearly there is close “weighty” family life between the appellant’s son and daughter-in-law and between them and their son. The appellant speaks and understands English to a high standard, he is financially independent and, although now tending to be housebound because of failing health, he has some contacts in the wider community. He is willing to integrate and is integrated as much as his health permits.
143. Further this is a case that turns on its own facts. The appellant is entitled to the benefit of the constraints the places on disrupting a nuclear family and the dominant (not determinative) policy imperatives of promoting the relationship between husband and wife and parents and minor children. Further the appellant’s son’s departure would have an adverse effect on the public good because he has rare skill in the health service. There are an unusual number of factors here pointing to allowing the appeal and not much pointing the other way.
144. For all of these reasons, I allow this appeal on human rights grounds.

**Notice of Decision**

145. This appeal is allowed.

Jonathan Perkins

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 31 August 2021