

## Gurkhas win High Court battle to stay in UK

Gurkhas who fought alongside the British Army have won their battle to settle in the UK following a High Court test case.

By Aislinn Simpson

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The result was welcomed by actress Joanna Lumley, whose late father served with the 6th Gurkha Rifles, as a chance to "right a great wrong and wipe out a national shame that has stained us all".

The six claimants who led the battle by 2,000 Gurkhas for the right to live in the UK included veterans of the Gulf War and Falklands conflicts who currently live in Nepal and Hong Kong.

They all applied to settle in the UK but were denied entry by immigration officials because of a policy that barred those who had not served since the Nepalese fighters' base moved from Hong Kong to Kent following the island nation's handover to China in 1997.

Their lawyer argued in the judicial review that all other foreign soldiers serving in the British Army are allowed to settle in the UK and the country owed the Gurkhas a "special debt" of gratitude for their brave service, which saw 50,000 killed and 13 win Victoria Crosses.

High Court judge Mr Justice Blake agreed, declaring the policy "irrational" and ordering Home Secretary Jacqui Smith to think again.

In a powerful judgement supporting the Gurkhas, he said immigration officials failed to take into account the men's their length of service, the fact that they were wounded in action and had been decorated for bravery.

The 1997 cut-off policy was suggested by the then Defence Secretary Geoff to the Home Office when it first

granted Gurkhas access to the UK in 2004, on the grounds that the Nepalese Government was "very concerned" about retrospective claims.

In reality, Mr Justice Blake said, there was "no evidence to support this opposition indeed the evidence consistently points the other way".

He concluded: "The court is conscious that at the heart of military life and the sacrifices that soldiers make in the discharge of their duties is the military covenant. "Rewarding long and distinguished service by the grant of residence in the country for which the service was performed would, in my judgment, be a vindication and an enhancement of this covenant."

There were emotional scenes outside the court, where more than 100 former servicemen, some wheelchair bound and others in ceremonial garments, gathered to celebrate.

Martin Howe, the solicitor who represented the six claimants, including a Falklands veteran, Lance Corporal Gyanendra Rai, 52, a Gulf War veteran, Rifleman Birendra Man Shrestha, 46, and a Gurkha widow, said it was a "wonderful, terrific victory day".

He said: "It's a victory for common sense, it's a victory for fairness, it's a victory that's right. This is a day that will go down in history for the Gurkhas.

"The veteran Gurkhas I represent, with typical humility and strength of character, give their heartfelt thanks to each and every person who stood by them in their hour of need as indeed the Gurkhas stood by us, in our darkest hours of need."

But Miss Lumley stressed the battle was "not over yet" and urged people to write to their MPs and sign the Gurkha's petition calling for the policy to be repealed, which she plans to take to Downing Street.

"We need to show the Government that the people of this country are 100 per cent behind the Gurkhas and their right to live as British citizens in this country," she said.

The judgement means that the claimants who brought the High Court case now have the right to live in the UK.

The Government has around three months to how to approach the cases of the remaining 2,000 Gurkhas refused entry.

The judgement could also generate further applications from the 40,000 Gurkhas discharged before 1997 who did not previously go through the costly settlement application process.

In a statement, the Home Secretary said: "In light of the court's ruling we will revise and publish new guidance. We will honour our commitment to the Gurkhas by reviewing all cases by the end of the year."

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