



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/04569/2013

THE IMMIGRATION ACTS

Heard at : Field House
On : 8th August 2013

Determination Promulgated
On : 9th August 2013

Before

Upper Tribunal Judge McKee

Between

RANJIT SINGH

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance
For the Respondent: Ms Zsuzsanna Kiss of the Specialist Appeals Team

DETERMINATION AND REASONS

1. On 14th March 2012 Mr Singh's representatives submitted an application for indefinite leave to remain in the United Kingdom, on the basis of 14 years' continuous residence. Mr Singh is said to have entered the UK clandestinely in 1998 at the age of 16. However, the evidence included with the SET(O) application form, which could not be supplemented by Mr Singh's representatives in response to a 'chasing' letter from the Border Agency in September 2012, was not enough to establish that he

could avail himself of the 'Long Residence Rule', paragraph 276A-B of HC 395. The application was refused on 24th January 2013, and an appeal to the First-tier Tribunal against the consequent decision to remove Mr Singh came before Judge Majid on 1st May 2013. The appeal was dismissed, but Judge Landes identified arguable errors of law in the determination, and granted permission to appeal to the Upper Tribunal.

2. When the matter came before me today, there was no appearance by or on behalf of the Appellant. Notice of the hearing was posted to his home address in Ilford on 11th July, and has not been returned undelivered. I am satisfied that there has been good service on Mr Singh. I therefore proceeded to hear the appeal in the absence of a party, in accordance with rule 38 of the Upper Tribunal Procedure Rules. Ms Kiss made submissions on behalf of the Respondent, based upon the documentary evidence adduced by Mr Singh, and I agree with her that Judge Majid did err in law, but that the appeal must be dismissed.
3. For his first-instance hearing, Mr Singh had compiled a bundle containing a dozen letters attesting to his long residence, as well as evidence of his presence at a wedding in Smethwick in November 2003, but Judge Majid does not say in his determination what he makes of all this. He does misquote one letter, that of Pastor Ng'ambi, who had written that Mr Singh would attend his church whenever he was visiting his family in Coventry, but that Mr Singh actually stayed in London most of the time for work reasons. Dr Majid got the impression that the Appellant was claiming to attend the church in Coventry and the Gurdwara in Ilford on the same day.
4. Apart from not taking account of relevant evidence, Dr Majid says nothing at all about Article 8, which was raised in both the Refusal Letter and in the Grounds of Appeal. His determination therefore has to be set aside, and the decision on the appeal falls to be re-made by the Upper Tribunal. Looking first at Mr Singh's claim to have been here since 1998, the only evidence for that, apart from his own assertion, is brief letters from Gurbal Singh Gill, Pawan Shandal and Paramjit Singh. None of these gentlemen gave evidence at the First-tier hearing. The only person who did, apart from the Appellant himself, was Olu Jemiraye, who said that he had known the Appellant for four years. The untested assertions in these three short letters come nowhere near to establishing, on a balance of probabilities, that the Appellant has resided in the United Kingdom for at least 14 years. As Ms Kiss also pointed out, the Appellant is said not to speak much English, and the services of a Punjabi interpreter were enlisted for today's hearing. If Mr Singh really came to this country as a minor, it is likely that he would have acquired much better English.
5. Quite rightly, however, Ms Kiss accepts that the documents in the Appellant's Bundle do establish that he has been residing here since 2003. We have a copy of his NHS card and a letter from Dr Gupta, saying that Mr Singh has been registered at his surgery since February 2003. A letter from the Secretary of the Gurdwara Singh Sabha in Ilford states that Mr Singh has been a member of the congregation since 2003, while two letters from private individuals also give that year as when they first made his acquaintance. Then there are the photographs of a wedding in Birmingham in 2003, at which the Appellant is present.

6. Having been in the United Kingdom for at least ten years, Mr Singh can safely be assumed to have formed a private life in this country, for the purposes of Article 8. (He has no family life. At the first-instance hearing, he corrected what Pastor Ng'ambi said in his letter about Mr Singh having family in Coventry.) Removal to India will certainly interfere with that private life, so we can pass quickly to the ultimate question in *Razgar*, namely whether such interference is proportionate. Ms Kiss contends, and I agree, that the information about the Appellant's private life is exiguous. Last year his representatives described him as leading a fairly wretched existence, doing menial jobs, eating at the temple, and staying with people who had taken pity on him. We do not know what his connection is with Coventry, or how he can afford to go there if he has so little money. He was able to pay Kingswood Solicitors of Small Heath to lodge his appeal to the First-tier Tribunal, but the letters – some of which are undated, while others are dated 2009 – all give the same address for him in Ilford. We are not told who else lives there, if anybody.
7. The burden rests on the Appellant to show that he has established private life ties to the United Kingdom so strong that it would be disproportionate to expect him now to return to India. This he has signally failed to do. The appeal cannot succeed, either under the Immigration Rules or under the European Convention.

DECISION

The appeal is dismissed.

Richard McKee
Judge of the Upper Tribunal

8th August 2013