



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: IA/07384/2013
IA/07385/2013
IA/07400/2013

THE IMMIGRATION ACTS

Heard at Manchester
On 3rd October, 2013

Determination Promulgated
On 29th November 2013

Before

Upper Tribunal Judge Chalkley

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

and

Appellant

MRS GURPREET KAUR BADOHAL
MR HARDEEP SINGH BADOHAL
MISS ASHMEET KAUR BADOHAL

Respondents

Representation:

For the Appellant: Mr McVeety, Home Office Presenting Officer
For the Respondent: Mrs S Lee, Assistant Solicitor with Salam & Co

DETERMINATION AND REASONS

1. The appellant in this appeal is Secretary of State for the Home Department to whom I shall refer as the claimant. The respondents are all citizens of India. They are a

mother, father and a daughter respectively aged 31, 38 and 3. The first respondent entered the United Kingdom on 21st September, 2011 with leave to remain until 15th November, 2012. On 1st November, 2012 she made a combined application for leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant under the points-based system and for a biometric residence permit. The second and third respondents are dependent on her application.

2. On 23rd February, 2013 the claimant refused the respondents' applications. The respondents appealed and their appeal was heard in Manchester on 9th July last by First-tier Tribunal Judge De Haney. In his determination promulgated on 30th July 2013 the judge concluded that the first named respondent had satisfied the requirements of the Immigration Rules and he allowed all three appeals. The claimant had originally refused the respondents' applications, because in respect of the first respondent, the claimant found that while the first respondent qualified under attributes, she failed to meet the maintenance provisions. It was asserted that the first named respondent had failed to provide evidence to meet paragraph 1A(h) of Appendix C and demonstrate that she was in possession of not less than £3,400 for a consecutive 28 day period. The judge was satisfied that she had met the requirements by demonstrating this.
3. The claimant challenged the determination and asserted that the judge was wrong in his determination by allowing the appeal. They criticise the judge for not making any specific findings on how the documents met the terms of the Rules and criticise the judge's findings agreeing with the appellants' representations that the relevant funds would have been in the relevant account at the relevant time. They point out that the Secretary of State's evidential flexibility policy does not apply.
4. At the hearing before me Mr McVeety on behalf of the claimant confirmed that there were no errors of law in the judge's determination. The letters at J1 and K1 and the statements at L1 and L2 clearly demonstrated that the first named respondent met the requirements of the Immigration Rules at the date of the decision. I can find no other obvious error of law in the judge's determination and have not been asked to accept an amendment to the grounds of challenge.
5. In the circumstances I am happy to make this determination to record the fact that the Secretary of State is content that there is no error of law in the judge's determination which will stand.

Upper Tribunal Judge Chalkley