



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/14839/2012

THE IMMIGRATION ACTS

Heard at Field House, London
On 7th August 2013

Determination Promulgated
On 21st August 2013
.....

Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

MRS ANGE KIESE MUZINGA
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ogolo
For the Respondent: Ms Ong, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a citizen of DRC who appeals with permission, against the decision of First-tier Tribunal Judge Phull who dismissed her appeal against the decision of

the Respondent refusing her entry clearance as the spouse of Yvon-Bapius Gustave (the Sponsor), a man settled here.

2. The Entry Clearance Officer originally refused the application on several grounds under the Immigration Rules but the Judge hearing the appeal on 23rd May 2013 dismissed it on one ground only; namely paragraph 281(ii) as she found that the Appellant had failed to provide an English Language Test Certificate.
3. The Appellant sought permission to appeal. This was granted and the matter came before me on 7th August 2013 at Field House.
4. At the outset of the hearing, Ms Ong conceded that the First-tier Tribunal Judge had fallen into error in dismissing the Appellant's appeal. She accepted that what had been put forward by the Appellant's representatives, namely that an applicant from the DRC is exempt from the English language requirement, was correct. Ms Ong advised that there is no test centre in the DRC. As this was the only matter which troubled the First-tier Tribunal Judge, Ms Ong invited me to allow the appeal.
5. Mr Ogolo not surprisingly had nothing further to add to this. He too invited me to allow the appeal.

DECISION

6. The decision of the First-tier Tribunal Judge contains an error of law in that there is no requirement for an applicant from DRC to satisfy the English legal requirement test. The decision of the First-tier Tribunal Judge is set aside. I remake the decision.
7. This appeal is allowed.

No anonymity direction is made

Signature
Judge of the Upper Tribunal

Dated

Fee Award

As I have allowed the appeal, I have considered making a fee award and have decided to make a whole fee award of £140.00 which has been paid for the following reason. The Appellant's appeal was successful.

Signature

Dated