



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: VA/33532/2012

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 13<sup>th</sup> June 2013**

**Determination  
Promulgated**

**On 2 July 2013**

**Before**

**UPPER TRIBUNAL JUDGE RENTON**

**Between**

**SAMIA KADIR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER - ABU DHABI**

Respondent

**Representation:**

For the Appellant: Ms C Bexson, Counsel instructed by Khans Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

**DETERMINATION AND REASONS**

**Introduction**

1. The Appellant is a female citizen of Pakistan born on 5<sup>th</sup> December 1972. She applied on 2<sup>nd</sup> August 2012 for entry clearance in order to visit the UK for a period of one week to visit her sister-in-law, the Sponsor Lubna Khokar, and her newly-born child. That application was refused on 21<sup>st</sup> August 2012 for the reasons given in a Notice of Decision of that date. The Appellant appealed, and her appeal was heard by Judge of the First-

tier Tribunal Raymond (the Judge) sitting at Hatton Cross on 13<sup>th</sup> March 2013. He decided to dismiss the appeal for the reasons given in his Determination of 27<sup>th</sup> March 2013. The Appellant sought leave to appeal that decision, and on 2<sup>nd</sup> May 2013 such permission was granted.

### **Error of Law**

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Entry Clearance Officer refused the application because he was not satisfied that the Appellant was a genuine visitor for the period as stated by her who would leave the UK at the end of her proposed visit; and that during the visit the Appellant would be maintained and accommodated adequately and could meet the cost of her return or onward journey. This was because there was little reliable evidence as to the Appellant's financial circumstances in Pakistan. In a brief Determination, the Judge dismissed the appeal because he found that the concerns of the Entry Clearance Officer had not been addressed by the evidence to the Tribunal.
4. At the hearing I heard submissions on behalf of both parties. Ms Bexson argued that the Judge had erred in law in making his decision. There was ample evidence contained in the Appellant's bundle as to the financial circumstances of the Sponsor in the UK and hence her ability to accommodate and maintain the Appellant. The Judge had not explained why he had not attached any weight to this evidence. The Appellant's bundle also contained evidence as to the Appellant's financial circumstances in Pakistan. The Judge had not dealt with this evidence in his Determination.
5. In response, Mr Avery argued that the Judge had not erred in law because he had made findings open to him on the evidence before him. The key issue in the case was the Appellant's intention to return to Pakistan, but as her financial circumstances there were uncertain, the Judge was entitled to conclude that he was not satisfied as to those intentions.
6. I found an error of law in the decision of the Judge so that it should be set aside. The Judge did not engage with the evidence before him contained in the Appellant's bundle dealing with the Sponsor's financial circumstances in the UK and the Appellant's financial circumstances in Pakistan. The Judge gave insufficient reasons for his decision.

### **Remade Decision**

7. I proceeded to remake the decision of the Judge. Mr Avery declined the opportunity to address me again. Ms Bexson submitted that the intentions of the Appellant were genuine. There was nothing in the immigration history of this family to cause doubt. The Appellant had numerous ties with Pakistan. The Appellant had a good reason for wishing to visit the UK for a short period.

8. The Appellant proposed to visit the UK for a period of no more than one week in order to see her brother and his wife. This would be the first opportunity of any member of the family in Pakistan to see the Sponsor's son Muhammad Ahmad born on 16<sup>th</sup> February 2009. It was proposed that the Sponsor would maintain and accommodate the Appellant throughout the short duration of the visit. There is evidence at pages 29 to 35 of the Appellant's bundle that the Sponsor is in employment earning usually just in excess of £1,300 per month net. There is no evidence before me of her husband's income, nor of the family's living expenses, but on the basis of this evidence I found it probable that the Sponsor would be able to maintain and accommodate the Appellant during the one week duration of this proposed visit.
9. The Appellant was to pay the cost of her travel. On the basis of her evidence that her visit was to be funded by her father and her husband in addition to her own resources, I find that she is able to do so. There is documentary evidence in the Appellant's bundle of adequate liquid assets regardless of their source.
10. I also accept the Appellant's evidence that her intention is only to enjoy a brief visit to the UK and then to return to her own country. I find no reason to doubt the credibility of this evidence. There is a plausible and sensible reason for the visit. The Appellant has significant ties to Pakistan in the form of her husband, her son, her parents, and her siblings all of whom will remain in that country. The Appellant does not have an adverse immigration history. The Sponsor, whom I also find to be credible, has said in her statement that the Appellant belongs to a "well off" family in Pakistan, and I do not think that there has been any attempt to deceive the Entry Clearance Officer as to the circumstances of the Appellant's family indicating that it is not the Appellant's intention to return to Pakistan. I therefore find that the requirements of paragraph 41 of HC 395 are met and this appeal is allowed.

### **Decision**

11. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
12. I set aside the decision.
13. I remake the decision in the appeal by allowing it.

### **Anonymity**

14. The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I find no need for me to do so.

Signed

Date

Upper Tribunal Judge Renton  
**TO THE RESPONDENT**  
**FEE AWARD**

In the light of my decision to remake the decision in the appeal by allowing it, I have considered whether to make a fee award. However, as no fee is paid or payable there can be no such fee award.

Signed

Date

Upper Tribunal Judge Renton