



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: VA/36111/2012
VA/36112/2012

THE IMMIGRATION ACTS

Heard at Bradford
On 30 October 2013

Determination Promulgated
On 4 December 2013

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

MAQSOOD BIBI
SHABANA KOUSAR

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Aziz
For the Respondent: Mr Spence

DETERMINATION AND REASONS

1. The appellants Maqsood Bibi and Shabana Kousar were born respectively on 1 January 1941 and 1 January 1981. By decisions dated 16 September 2012, they were

refused entry clearance to the United Kingdom as visitors. The appellants appealed to the First-tier Tribunal (Judge Sarsfield) which, in a determination promulgated on 1 August 2013, dismissed the appeal. The appellants now appeal, with permission, to the Upper Tribunal.

2. In granting permission, Judge Shaerf wrote:

The grounds of appeal address individually each of the findings contained in paragraph 6 of the determination and also the conclusion in paragraph 7. The judge made no finding whether the evidence for the appellants was credible or reliable. The judge gave insufficient or no reasons to support his conclusion. These are arguable errors of law and permission to appeal is granted.

3. Judge Sarsfield concluded his determination as follows:

I find the following:

- (a) The respondent accepted the sponsor can maintain and accommodate the appellants and pay the travel costs.
- (b) The appellants are reliant on other family for their income according to the applications, but there was no supporting evidence of any amounts or regularity.
- (c) Only on appeal was any reference made to rental income and there is no supporting evidence.
- (d) The sponsor said there was income from crop sales to local villages - a new fact without supporting evidence.
- (e) The ECO had been unaware of the two new incomes claimed.
- (f) There was no provenance for the bank deposits.
- (g) The appellants have not given a full account of their finances and circumstances; they are not credible.
- (h) I am not satisfied that they have answered the ECO's concerns despite ample time and opportunity to do so.

I am not satisfied the appellants are genuine visitors intending to leave at the end of any stay in the UK. I am not satisfied that all the requirements of paragraph 41 have been met.

4. The judge's conclusions are somewhat brusque. The question is whether his reasons are adequate. The position was elucidated by Mr Aziz who, in his submissions, told me that the appellants had not considered it necessary to give documentary support for their financial circumstances in Pakistan "in any detail" because they "thought they would get a visa on the same facts as last time." If anything, that submission reinforces the reasoning behind Judge Sarsfield's determination. It is clear from what I have set out above that the judge was concerned that there was little or no supporting evidence for the claimed financial circumstances of these appellants who rely on other family members for their income. The judge noted that the burden of proof in the appeals rested on the appellants and, although he does not say so in terms, it is clear that he has concluded that they had failed to discharge that burden. I consider that was a finding open to the judge on the evidence available. The mere fact that an applicant has obtained a visa in the past does not remove the obligation

to provide full documentary support for any subsequent application. In the light of Mr Aziz's submission, the appellants have, in effect, admitted that their applications lacked the supporting documentary evidence which was necessary. The judge's conclusion that the appellants had failed to give "a full account of their finances and circumstances" is incontrovertible. The Tribunal should have been provided with a full picture of those circumstances to include income, expenditure, assets and liabilities. Bare assertions as to assets owned supported by a few receipts and other documents are highly unlikely to constitute evidence sufficient to discharge the burden of proof. They did not do so in this instance and I find that the judge did not err in law by dismissing the appeals.

DECISION

5. These appeals are dismissed.

Signed

Date 21 November 2013

Upper Tribunal Judge Clive Lane