



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: IA/18488/2014

THE IMMIGRATION ACTS

**Heard at Birmingham
On 11th December 2014**

**Decision & Reasons
Promulgated
On 22nd December 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE FRENCH

Between

**AMANPREET MUNDIAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A David, instructed by the Law Partnership Solicitors

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of India who had applied for further leave to remain as a spouse. He appealed against the refusal of that application and his appeal was heard before First-tier Tribunal Judge P J Holmes. The issues with regard to the Immigration Rules were whether the Appellant met the English language requirements and whether he satisfied the financial requirements of Appendix FM to the Rules. The judge found that the English

language requirements were met. As regards the financial requirements he accepted that documents had been produced supporting the income claimed as at the date of application but he dismissed the appeal under the Rules as the evidence showed that the income had since decreased. The appeal was also dismissed under Article 8 ECHR.

2. The Appellant applied for permission to appeal, contending that the necessary payslips to prove income had in fact been submitted with the application but had been returned by the Home Office. It was also said that the decision was unnecessarily harsh under Article 8 ECHR. On 10th October 2014 permission was granted only in respect of the challenge relating to the Immigration Rules.
3. At the hearing before me Mr David for the Appellant had submitted a detailed skeleton argument. Mr Mills for the Secretary of State said that having viewed the file he could concede that there was an error in the judge's determination as the Home Office at the hearing had conceded the evidence of finance was in order. The missing payslips had in fact been submitted and returned and were present at the hearing. With regard to finance there was no bar to evidence being produced at the hearing provided it related to the correct period and the Presenting Officer on that occasion had been satisfied. The only outstanding issue was the English language certificate and the judge found in favour of the Appellant in that respect. There had been no challenge to that finding. He accepted that the relevant period was six months prior to the date of application with regard to finance, which might seem odd but appeared to be the case.
4. I agreed with the contention put forward by Mr Mills and I am grateful to him for his practical and realistic approach. I did not need to call upon Mr David to address me. I set aside the decision of the judge at first instance and allowed the appeal under the Immigration Rules.
5. With regard to fees Mr David accepted that the English language certificate had not been submitted with the application. My view was that it was therefore legitimate for the respondent to refuse the application at that stage and I decided to make no fee award.
6. There was no request for an anonymity order and I could see no need for any such order to be made.

Decisions

The original decision involved the making of an error on a point of law and I set it aside.

I now remake the decision and the appeal is allowed under the Immigration Rules.

No anonymity direction is made.

Signed
2014

Dated 19 December

Deputy Upper Tribunal Judge French

TO THE RESPONDENT
FEE AWARD

I have decided to make no fee award for the reasons set out above.

Signed
2014

Dated 19 December

Deputy Upper Tribunal Judge French