



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

Appeal Number: OA/12658/2013

THE IMMIGRATION ACTS

Heard at Bradford

On 10th July 2014

Determination

Promulgated

10th September 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

**MRS MAQBOOL JAN
(ANONYMITY NOT DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M.A. Aziz, Legal Representative

For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This matter comes before the Upper Tribunal as the result of Judge E.B. Grant giving permission to appeal in the following terms:

The hand-written grounds are not easy to read and I have struggled to decipher the appellant's handwriting. In what I can understand the appellant submits the determination lacks clarity that it is not clear what decision under the Immigration Rules the judge has made findings on and the reasons therefore. The appellant asks if Article 8 has been considered.

I have some sympathy with the grounds. The determination comes across as poorly structured but it is clear from the findings that the judge found the appellant could not meet the requirements of the Immigration Rules because she had not shown, supported by medical evidence, that she needed help to perform everyday tasks and the evidence of Mrs Naseem did not state what the appellant could or could not do for herself without assistance. In other words the evidence fell short of establishing that the appellant met the requirements of the Immigration Rules.

There are no findings on article 8 which was raised as an issue before the judge in the witness statement of the sponsor Mr Jabber. I cannot see if Article 8 was raised in the Grounds of Appeal because the handwritten grounds of appeal are illegible to me. Permission is granted limited to Article 8.

2. The appellant is a citizen of Pakistan who was born on the 1st January 1944. She had appealed to the First-tier Tribunal (Judge Robson) against the refusal of the respondent to grant her application for entry clearance as an adult dependent relative of her son (Mr Abdul Jabbar) who is a British citizen.

3. The limited and somewhat confusing reference to Article 8 in the witness statement of the sponsor, Mr Jabber, is as follows:

This is a compelling case and has all the rights of human right article 8 (sic) dependent financially from UK also has know one (sic) to care for her.

4. The appellant's grounds of appeal to the First-tier Tribunal - which, incidentally, are in the same hand as those that led to the granting of permission to appeal to the Upper Tribunal - are in the following terms:

Appeal against paragraph (EC-DR.1.1(c)) of Appendix FM of the Immigration Rules (E-ECDR.2.5) on the following grounds -

1. All the documents regarding my health has been place before (ECO) has been overlooked.
2. It is very hard to look after person like my health to look after without close family and my close family are settled in U.K.
3. Person who used to look after me no longer will. To do evidence are enclosed herewith.
4. It is very hard to receive treatment of illness less someone take you to doctor which are far away from where I live.
5. Proof of (A,B,C) will follow later. Please review my application and allow me to join my family in U.K. where I can look after last day of life.

5. It is plain from the above that there was absolutely no suggestion in the grounds of appeal that the decision to refuse entry clearance was in breach

of the appellant's rights under Article 8 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms. On the contrary, they made it abundantly clear that the appeal was being brought solely on the ground that the decision was not in accordance with immigration rules, and Mr Aziz confirmed that this was all that he had argued at the hearing before the First-tier Tribunal. In any event, had the grounds of appeal been truly unintelligible, it is difficult to see how a failure to consider them could amount to an arguable error of law. The fleeting and barely intelligible reference to Article 8 in the witness statement of the sponsor was clearly insufficient to invoke the duty, under Section 86 of the Nationality, Immigration and Asylum Act 2002, to determine "*any matter raised as a ground of appeal*" [emphasis added]. Permission to appeal to the Upper Tribunal ought thus never to have been granted.

6. I would that add that the criticism made of the determination within the grant of permission to appeal was as unwarranted as it was gratuitous. It was gratuitous because permission to appeal was in any event refused in respect of the ground of application that led to its making. It was unwarranted because Judge Robson's determination is both well-structured and a model of clarity.

Decision

7. The appeal is dismissed.

Anonymity not directed.

Signed

Date

David Kelly

Deputy Judge of the Upper Tribunal