



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/13221/2013

THE IMMIGRATION ACTS

Heard at Field House
On 12th August 2014

Determination Promulgated
On 18th August 2014

Before

UPPER TRIBUNAL JUDGE POOLE

Between

THE ENTRY CLEARANCE OFFICER

Appellant

and

ALI RAZA KHAN
(ANONYMITY DIRECTION NOT MADE)

Respondent

Representation:

For the Appellant: Mr P Deller, Home Office Presenting Officer
For the Respondent: Mr AA Shamim

DETERMINATION AND REASONS

1. In this determination I will refer to the parties by the style in which they appeared before the First-Tier Tribunal.

2. The appellant is a male citizen of Pakistan born 12 July 1990. He made application for entry clearance to join his wife in the United Kingdom. His wife has leave to remain as a domestic worker. The application was refused and he appealed that decision. His appeal came before Judge of the First-Tier Tribunal Hussain sitting at Richmond on 15 April 2014. The appellant's sponsor attended and gave evidence. The respondent was represented by a Presenting Officer. In a determination promulgated on 29 May 2014 the appellant's appeal was allowed.
3. The respondent sought leave to appeal that decision. The grounds allege a material error in that the judge had failed to deal with an issue that had been specifically raised in the decision notice. This included comment that no evidence had been provided regarding contact for 2½ years between the parties to the marriage.
4. In granting leave to appeal another judge of the First-Tier Tribunal gave this as a reason:

"It is arguable that the judge erred in failing address (sic) the sponsor's failure to visit the appellant for some two and half years before the making of the application. This was raised in the decision as a reason for the refusal".
5. Hence the matter came before me in the Upper Tribunal.
6. Mr Deller made an oral submission in support of the Entry Clearance Officers challenge. In fact there was no challenge to the question of accommodation. This is dealt with in paragraph 8 of the determination. Mr Deller quite rightly drew my attention to the fact there was evidence that the sponsor had gone to Pakistan and with regard to previous applications and a joint account. Very credibly Mr Deller suggested that the judge had done enough in the determination to avoid error.
7. Mr Shamim had nothing to add other than that he supported the judge's determination.
8. For the reasons that now follow, I indicated that I was dismissing the Entry Clearance Officer's appeal. There was no material error contained within the determination.
9. The main challenge to Judge Hussain's conclusion are with regard to contact enjoyed between the appellant and his wife since November 2010. It is said that as this issue had been raised by the Entry Clearance Officer it failed to be determined by the judge and he would be in error if he did not do so.
10. In fact the judge dealt with all issues that had been raised by the parties. IN paragraph 10 the judge says this:

"I am also at a loss to understand how the respondent could have overlooked evidence in his own bundle that showed that his sponsor travelled to Pakistan on 2

May 2013 until 2 July that year. This evidence is clearly consistent with there being a subsisting marriage...”

11. The judge clearly addressed all issues including the requirements of the Immigration Rules. He made findings that were entirely open to him and no error of law exists within the determination.
12. The appeal lodged on behalf of the Entry Clearance Officer is accordingly dismissed.
13. No application was before me in respect of anonymity and I make no direction in respect thereof.

Signed

Date

Upper Tribunal Judge Poole