



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

Appeal Number: OA/19653/2013

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

**On 11 December 2014
Oral judgment**

On 15 December 2014

Before

UPPER TRIBUNAL JUDGE COKER

Between

**MR A K M SUAJAAT HUSAIN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Smith, Counsel, instructed by Danielle Cohen
Immigration Law Solicitors

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is the appeal of Mr Suajaat Husain, who appeals against the decision of Mr Lawrence in the First-tier Tribunal in a determination promulgated on 27 August 2014 dismissing his appeal against the refusal to grant him a residence card as the dependant of an EEA national exercising treaty rights in the UK. The grounds seeking permission are quite lengthy and permission was granted by Judge Osborne on all grounds.

2. The most significant issue before me though is the failure of the judge to take account of the length of time that the appellant's son-in-law, who is a Ugandan-born Norwegian citizen who does not speak Bengali, spent in Bangladesh: some fourteen months out of eighteen months. Although in the absence of that it may well have been difficult for the appellant to succeed in challenging the decision of Judge Lawrence, it is apparent that the credibility findings that were made by the judge did not consider that length of time. Although Mr Bramble submitted that it is possible that Mr Jamal, the son-in-law, had been in Bangladesh for business reasons that was not a matter that was put to Mr Jamal in the First-tier Tribunal as far as I can see nor was it disputed that he had spent that amount of time there and nor was it referred to by the judge other than to record that he had spent that amount of time.
3. Although there are adverse credibility findings made by the judge in connection with a previous visit visa and the relationship between the appellant and his son the issue of dependency is a matter that would have to include consideration of the amount of time that the son-in-law had spent there given there is some evidence of relatively serious illness and given of course his age.
4. There are problems with the medical reports that were produced and there are issues in relation to discrepancies in the evidence that was given by the two sponsors. However, to spend fourteen months in Bangladesh, in a country where you do not speak the language, and you are not a blood relative and you have three children and a wife remaining in the UK is a matter that needed proper, serious consideration in assessing whether the appellant was a dependant.
5. For that reason I am satisfied that there is an error of law in the determination of the First-tier Tribunal such that it is to be set aside and remade.

Signed

Date 15th December 2014

Upper Tribunal Judge Coker