



**Upper Tribunal
Immigration and Asylum Chamber**

**Appeal Number:
VA/06005/2013**

THE IMMIGRATION ACTS

**Heard at Field House
Determination
promulgated
On 21st Aug 2014**
**(via video link to Bradford)
On 28th May 2014**

Before

Deputy Judge of the Upper Tribunal I. A. Lewis

Between

Hameed Khan
(Anonymity direction not made)

Appellant

and

Entry Clearance Officer, Abu Dhabi
Respondent

Representation

For the Appellant: Mr. W. Khan, nominated sponsor.
For the Respondent: Ms. R. Petterson, Home Office
Presenting Officer.

DETERMINATION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Jaffer promulgated on 21 November 2013, dismissing the Appellant's appeal against the Respondent's decision dated 20 February 2013 to refuse to grant entry clearance as a family visitor.

Background

2. The Appellant is a national of Pakistan born on 5 January 1987. He made an application for entry clearance to visit his brother Mr Waheed Khan ('the sponsor'). The application was refused for reasons set out in a Notice of Immigration Decision dated 20 February 2013 with reference to paragraph 41(i) and (ii) of the Immigration Rules.

3. The Appellant appealed to the IAC. The sponsor attended the appeal hearing and gave evidence in support of the appeal. The First-tier Tribunal Judge dismissed the Appellant's appeal for reasons set out in his determination.

4. The Appellant sought permission to appeal which was granted by First-tier Tribunal Judge Keane on 4 April 2014.

5. The Respondent has filed a Rule 24 response dated 22 April 2014 resisting the appeal.

Consideration

6. The reasons given in the Notice of Immigration Decision for refusing the Appellant's application for entry clearance indicate that the Respondent was satisfied in respect of the maintenance and accommodation to be provided by the sponsor. As regards the Appellant's circumstances in Pakistan, he had stated that he was self-employed as an agriculturalist with a poultry business: the Respondent was satisfied that he was self-employed, however, was not satisfied that his financial circumstances were as claimed. The Respondent's reasons in this regard were based on the fact that a letter from the Appellant's bank only provided a balance at a specific date and did not therefore show the history of transactions in the Appellant's account; further copies of prize bonds (similar to premium bonds) did not bear the name of the holder and were therefore not accepted as belonging to the Appellant.

7. The First-tier Tribunal Judge heard evidence from the sponsor, and also noted the production of evidence showing the Appellant's business activities in respect of his poultry business. The Judge accepted that the Appellant was a landowner, was married, and had a poultry business. However, the Judge found that the Appellant had not established the income that he derived from his business and had failed to establish that the prize bonds belonged to him.

8. The Judge then said this at paragraph 12: "*As he has failed to establish his income is as claimed his failed to establish the origin of savings in his account. He has not **therefore** established that the visit was for the period or purpose stated*" (my emphasis).

9. I remind myself that there is no income threshold requirement under the Immigration Rules for a family visitor – although economic activity may be a relevant consideration in evaluating intentions. In my judgement there is a logical disconnect in the Judge’s reasoning between premise and conclusion: a failure to prove income does not equate with a failure to establish the intention behind a visit or the intended duration of a visit. Moreover, the Judge failed to make any findings in respect of the sponsor’s evidence: the sponsor’s evidence supported the Appellant’s claim that the prize bonds belonged to the Appellant, and also addressed the Appellant’s intentions.

10. In my judgement the Judge’s reasoning is deficient to an extent that it amounts to an error of law. It is not possible to discern on what basis the Judge reached his conclusion in the appeal. The error is material as it forms the core of the Judge’s determination. The decision in the appeal requires to be set aside and remade accordingly.

11. I am satisfied that it is possible to remake the decision in the appeal without remitting the matter to the First-tier Tribunal. I heard evidence briefly from the sponsor.

12. The Respondent’s reasoning in support of the refusal is extremely thin. In my judgement it amounts to little more than speculation as to the Appellant’s intentions. The Appellant produced supporting material that he was economically active – which was accepted by the Respondent and the First-tier Judge. I find that there was nothing of substance to suggest that his intentions were anything other than he had said. The Appellant lives with his wife in Pakistan. Moreover, on appeal, the sponsor indicated to the First-tier Judge that the Appellant’s parents (also the sponsor’s parents) resided in Pakistan and the Appellant would return to support them: *“He will not abandon his family there”* (paragraph 8). This was repeated to me, and I accept this assertion at face value: I note that at no point did the Respondent cast doubt on the integrity of the sponsor. A further bank statement has now been produced covering the period 1 February 2013 to 19 November 2013. Whilst most of this period is post-decision, in my judgement it is consistent with the Appellant’s claimed economic activity, and is supportive of the notion that at the date of the Respondent’s decision he was generally able to support himself and his family from his own funds. Whilst no precise income figure is readily to be derived from the bank statements, as noted above, this is not a requirement of the Rules. On the strength of the sponsor’s evidence I also accept on a balance of probabilities that the prize bonds produced by the Appellant belong to him.

13. I find that the Appellant has demonstrated strong ties with Pakistan – he is economically active there, owns land there, and has

immediately family there. There is no evidential foundation for doubting the Appellant's and sponsor's assertions with regards to the intention behind his visit (to visit his brother and to meet his sister-in-law and nephew), or its intended duration - all of which is entirely consistent with the requirements of the Rules.

14. In the circumstances I am satisfied on a balance of probabilities that at the date of the Respondent's decision the Appellant met the requirements of paragraph 41(i) and (ii). There is no dispute with regard to any of the other requirements of the Rules.

15. Accordingly I find that the Respondent's decision was not in accordance with the Immigration Rules, and that the Appellant should properly have been granted entry clearance.

Decision

16. The decision of the First-tier Tribunal Judge contained an error of law and is set aside. I remake the decision in the appeal.

17. The appeal is allowed.

Deputy Judge of the Upper Tribunal I. A. Lewis 20 August 2014