



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

Appeal Numbers: VA/10703/2013
VA/10695/2013

THE IMMIGRATION ACTS

Heard at Manchester

On 10th July 2014

Determination

Promulgated

On 6th August 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE D N HARRIS

Between

**MR MUHAMMAD RIAZ (FIRST APPELLANT)
MR KHALID RIAZ (SECOND APPELLANT)
(NO ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Nazakit Bahadur, Sponsor

For the Respondent: Mrs K Heath, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellants are citizens of Pakistan. They are respectively father and son. The son being the first named Appellant. They had submitted simultaneous applications for permission to enter the United Kingdom with

a view to spending a holiday with the first Appellant's sister who is also the second Appellant's daughter. Their brother-in-law/son-in-law Mr Nazakit Bahadur is the Sponsor. Their appeals were refused by the Entry Clearance Officer on 6th May 2013. Mr Khalid Riaz's application was refused pursuant to paragraph 41 and was refused under paragraph 320(7B). Mr Muhammad Riaz was refused on the grounds the Entry Clearance Officer did not consider that he met the requirements of paragraph 41 of the Immigration Rules.

2. The Appellants appealed and the appeals came before First-tier Tribunal Judge Osborne to be heard on the papers in December 2013. In a determination promulgated on 8th January 2014 the appeals were dismissed but so far as the decision against Khalid Riaz was concerned it was dismissed under paragraph 320(7A) and not 320(7B). It is also appropriate to note that there is an error in the decision of the First-tier Tribunal Judge in that in the decision he appears to refer to the dismissal against Muhammad Riaz rather than Khalid Riaz so far as paragraph 320(7A) is concerned.
3. The Appellants applied for permission to appeal on 22nd April 2014 and on 21st May 2014 First-tier Tribunal Judge Tiffan granted permission to appeal. Grounds of Appeal were handwritten by the Sponsor. Judge Tiffan noted that they correctly refer to the judge having misstated the names and relationships of the Appellants to the Sponsor and he concluded that this was an arguable error of law. He further extended the time permitted to appeal under Rule 24(4) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (as amended).
4. On 5th June 2014 the Secretary of State responded to the Grounds of Appeal under Rule 24. The Secretary of State in that letter indicated that she did not entirely understand the point raised with respect to the relationship of the parties as it refers to the Grounds of Appeal saying that the judge has mistaken the relationships when the documentation attached to the IA66 does not appear to cover this point. In any event the Secretary of State contends that even if this is correct the issues raised in the refusal and addressed by the judge are entirely freestanding of the point and that it was clear that the individual adverse findings were sustainable.
5. It is on this basis that the appeal comes before me. The Appellants are represented by their Sponsor Mr Bahadur. As stated above he is Mr Muhammad Riaz's father-in-law and Mr Khalid Riaz's brother-in-law being married to Mr Khalid Riaz's sister. The Secretary of State appears by her Home Office Presenting Officer Miss Heath. I explained fully to Mr Bahadur, as he was acting in person, the purpose of appeal and that it was necessary to show as a starting point that there was a material error of law in the decision of the First-tier Tribunal. He indicated his acknowledgment and understanding of that position.

Submissions

6. Miss Heath submitted that it is clear that the judge had made findings on each of the applicants and the findings that the judge had made were not challenged in the Grounds of Appeal. Yet the knowledge that even if there was a confusion as to which Appellant was which as set out in the decision (this being something I have referred to above) the First-tier Tribunal Judge made distinct findings which were open to him and submits that the findings are to stand and that there is no material error of law and that I should dismiss the appeal.
7. I invited Mr Bahadur to make submissions to me and indicated that I would not interrupt him during the course of those submissions. He indicated that he accepts that the responses of the Secretary of State are still valid. However so far as his father-in-law is concerned he points out that he is over 60 and that he just wanted a three week holiday and that his wife i.e. the Sponsor's mother-in-law previously visited the UK to see her daughter and had properly abided by the terms of her visa and returned. He acknowledges that some of the evidence produced is not as clear as it should be but he asked me to look at Mr Muhammad Riaz's application independently and merely because he was travelling together with his son it was not appropriate to refuse his application. He asked me to reconsider the refusals.

The Law

8. Areas of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial consideration, reaching irrational conclusions on fact or evaluation or to give legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
9. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for an Immigration Judge to fail to deal with every factual issue of argument. Disagreement with an Immigration Judge's factual conclusion, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence of events arising after his decision or for him to have taken no account of evidence which was not before him. Rationality is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration Judge concludes that the story is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

Findings on Error of Law

10. Albeit that these appeals were dealt with on the papers they have been very thoroughly looked at by the First-tier Tribunal Judge. He has examined both the basis for refusals pursuant to paragraph 320 and paragraph 41, has considered the inconsistencies with regard to Mr Khalid Riaz's circumstances and as to the failings in Mr Muhammad Riaz's application confirm and provide supportive evidence as to his business as a property dealer.
11. The grounds are handwritten by the Sponsor and I acknowledge that it is appropriate in such circumstances to look at these grounds with perhaps a little more flexibility than I would if they were drafted by legal representatives but they amount to little more than a request for me to ensure that the applications are individually looked at and not confused and whilst there has been some confusion in the set up of the determination by the First-tier Tribunal Judge his findings of fact are sound.
12. Mr Bahadur acknowledges the position with regards to Khalid Riaz and emphasises the main thrust of his appeal is based very largely in support of his father-in-law's application relying on the fact that his mother-in-law has previously abided by the terms of her visa. That is addressed in paragraph 24 of the First-tier Tribunal Judge's determination and it is appropriate for Mr Muhammad Riaz to take on board exactly what the First-tier Tribunal Judge said there:

"I cannot be satisfied that his circumstances are as claimed as the factors claimed are so disparate and there is a virtual total lack of corroborative evidence of any description."
13. In all the circumstances the determination discloses no material error of law and I dismiss the appeals. Certainly so far as Mr Muhammad Riaz is concerned this may well come as a considerable disappointment. It is not the purpose of the immigration system to prevent genuine visits to the UK. It may well be that Mr Muhammad Riaz would wish to reapply and if that is the case then he should be encouraged to do so but he should also be aware that it is necessary to comply with the terms of the Immigration Rules. If he does seek to reapply he would be most strongly advised to ensure that his application is properly completed along with the appropriate accompanying documentation.

Decision

14. The decision of the First-tier Tribunal discloses no material errors of law and the appeals of both the first and second Appellants are dismissed.
15. The First-tier Tribunal Judge did not make an order pursuant to Rule 45(4) (i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. No application is made to vary that order and none is made.

Signed

Date

Deputy Upper Tribunal Judge D N Harris

31st July 2014