



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

Appeal Number: VA/16007/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 29 July 2014**

**Determination
Promulgated
On 5 August 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE J M LEWIS

Between

MRS RASOOLAN BIBI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance by or on behalf of the Appellant (but see below)

For the Respondent: Mr I Jarvis, Home Office Presenting Officer

DETERMINATION AND REASONS

The History of the Appeal

1. The Appellant, Mrs Rasoolan Bibi, a citizen of Pakistan, applied for entry clearance to the UK as a family visitor. Her application was refused on 8 July 2013. Her ensuing appeal, at which both parties were represented,

was heard by Judge Harries sitting at Newport on 22 May 2014 and allowed in a determination of 27 May promulgated the following day.

2. On 4 June the Respondent applied for permission to appeal. This was granted on 16 June by Designated Judge Garratt in the following terms:

- “1. The respondent applies in time to appeal against the determination of Judge of the First-tier Tribunal J Harries in which she allowed the appeal against the decision of the respondent to refuse entry clearance as a visitor in accordance with the provisions of paragraph 41 of the Immigration Rules.

2. The grounds point out that as the respondent’s refusal decision was made after the coming into force of Section 52 of the Crimes and Courts Act 2013 on 25th June 2013 the appeal rights for visitors to UK were limited to racial discrimination and human rights. The judge was therefore wrong to determine the appeal under the provisions of paragraph 41 of the Immigration Rules.

3. The grounds are arguable. Permission is granted.”

3. On 23 June the Respondent’s solicitors, SZ Solicitors, submitted a Rule 24 Response. Essentially this submits that the Appellant made her application on 19 June 2013, which was before the change in the law which took effect on 25 June 2013. Thus this change did not bear on the decision, and the judge had jurisdiction to consider the appeal substantively. On 3 July 2014 SZ Solicitors wrote to the Tribunal excusing their attendance at the error of law hearing and requesting that the issue be determined by reference to their Rule 24 response.

4. At the error of law hearing Mr Jarvis explained that there were two Home Office information systems. One recorded the application as having been made online on 19 June 2013 and the other on 25 June 2013, so the position was not entirely clear to the Respondent. Mr Jarvis properly acknowledged that the issue of jurisdiction had not been raised by the Respondent at the hearing before Judge Harries.

Determination

5. Two entries in the UKBA print-out of the application for entry clearance state that the date that the application was submitted online, and the date of the application, were 19 June 2013. The Appellant is entitled to rely upon this, and is not to be disadvantaged by the existence of a different record of the Respondent, which she had not apparently seen, giving a different date for the application.
6. On that basis the application was made seven days before the commencement of Section 52 of the Crimes and Courts Act 2013. The

Act's restriction on visit appeals was not therefore in point. The judge was entitled and bound to determine the appeal substantively, and did so.

7. The application for permission to appeal is based on this ground alone. It does not therefore reveal any error of law. Permission to appeal is refused, and the determination is upheld.

Decision

8. The original decision does not contain any error of law and is upheld.

Signed
July 2014

Dated: 30

Deputy Upper Tribunal Judge J M Lewis