



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: VA/16776/2013

THE IMMIGRATION ACTS

Heard at Birmingham Sheldon Court
On 11th September 2014

Determination Promulgated
On 22nd September 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

MR MUHAMMAD WASEEM SHAHID
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER, ABU DHABI

Respondent

Representation:

For the Appellant: No appearance
For the Respondent: Mr David Mills (HOPO)

DETERMINATION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge D Dickinson, promulgated on 17th April 2014, following a hearing at Nottingham Magistrates' Court on 21st March 2014. In the determination, the judge dismissed the appeal of

Muhammad Waseem Shahid. The Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Pakistan, who was born on 18th January 1984. He appealed against the decision of the Respondent Entry Clearance Officer dated 9th July 2013, refusing his application to visit the UK on a family visit under paragraph 41 of HC 395.

The Appellant's Claim

3. The Appellant's claim is that he is a businessman with a total income of £608 per month, and he had bank deposits to show this. He wished to come to the UK on a family visit to meet his real brother, Mr Masood Hussain, following which he will return back to Pakistan to resume his business.

The Judge's Findings

4. The judge had regard to the Entry Clearance Officer's refusal of 9th July 2013, as well as the Entry Clearance Manager's review on 5th January 2014 and noted that the Appellant had claimed to be a businessman, which business could properly be demonstrated by way of documentary proofs. However, it was not clear that this was a successful business and the bank statements did not properly reflect for certain, on the balance of probabilities test, his claimed income of £600 per month. This was because there were deposits in his bank account over the past six months totalling £9,452 which simply could not be explained. As far as the Appellant's family circumstances were concerned, the judge held that the Appellant did provide documentary evidence that showed that he had a family in Pakistan, which included his wife and child born on 25th December 2012 (see para 13). Given the lack of evidence with respect to the Appellant's running of a successful business, the judge was not satisfied that the Appellant had every intention and every incentive to return back to Pakistan at the end of his visit (para 14). The appeal was dismissed.

Grounds of Application

5. The grounds of application state that the judge had erred in his judgment that the Appellant had not given a true account of his situation in Pakistan and that he had failed to establish on a balance of probabilities that he would return back to Pakistan at the end of his visit in the UK. The ECO himself had taken no issue with the Appellant having a business. There was, moreover, a significant bundle of documentary evidence submitted.
6. On 11th July 2014 permission to appeal was granted on the basis that the judge may well have failed to provide adequate reasoning and had failed to give due regard to the Appellant's good immigration history.

7. On 22nd July 2014 a Rule 24 response was entered on behalf of the Respondent supporting the decision of the First-tier Tribunal Judge.

The Hearing

8. At the hearing before me on 11th September 2014, there was a letter faxed at 12.19am on 11th September 2014 requesting an adjournment in terms that,

“I want to submit some new evidence regarding my appeal, which was not before the FTT and is available now, and would be available after a few days, which is deeply related and concerned with my appeal matter. Now I am extremely requested that my hearing should be adjourned for a few days in the interests of justice ...”

Mr Mills, appearing on behalf of the Respondent objected to the adjournment. He submitted that it was over a year since the refusal decision had been made and six months since IJ Dickinson had given his determination on 6th April 2014 and there had been ample time to submit new evidence. Also, it was far from clear what this new evidence was.

9. Having considered the issue, I have decided to refuse the request for an adjournment. The application does not state what the new evidence is. It is not clear what is meant by “after a few days.” It is in any event highly unlikely that evidence, which was not before the First-tier Tribunal Judge, and not before the Entry Clearance Officer, could properly be submitted before an Upper Tribunal Judge, with a view to impugning the determination of the First-tier Tribunal Judge. All things considered, the application for an adjournment is refused.
10. Subject to this, the hearing proceeded, and Mr Mills, on behalf of the Respondent, submitted that the determination could not be challenged because, even if the judge had found that there was a business, he was still entitled to look into the question of whether it was a successful business that was being run, with a view to determining whether the Appellant had the intention of just making a genuine visit and then returning back to Pakistan, or staying in the UK. The judge considered this question in a systematic way at paragraph 12. He accepted that the Appellant had a wife and child in Pakistan. He did not accept that the business statements were accurate in the light of the past six months’ deposits in the bank totalling £9,452. Second, the Appellant had opted for a “paper hearing” and had to take the consequences of this. If a negative view was taken by the judge of the documentation, it was only because the Appellant did not have anyone representing him to explain the documentation, and unless it could be shown that that view was grossly unreasonable, the judge was entitled to come to that view.

No Error of Law

11. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of **TCEA [2007]**) such that I should set aside this decision. The judge was entitled to come to the decision that he

did. He was entitled to take into account the fact that deposits over the last six months totalling £9,452 had been made into the Appellant's bank account, which were totally out of harmony with the claimed income of £608 per month, thereby raising a question mark whether these monies were really coming from his business, or had been deliberately deposited in order to massage the account with a view to showing that he would have every reason to return back to a business that he claimed was a viable business. The judge did not believe that. He was entitled to conclude (at para 14) that "the Appellant has failed to provide sufficient evidence of his financial and economic circumstances in Pakistan."

Decision

12. There is no material error of law in the original judge's decision. The determination shall stand.
13. No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

20th September 2014