



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

Appeal Numbers: VA/19193/2013
VA/19194/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 16 December 2014**

**Decision & Reasons Promulgated
On 18 December 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE J M LEWIS

Between

**MR SADRUDDIN ALI
MRS MUMTAZ ALI
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: None

For the Respondent: Ms A Everett, Home Office Presenting Officer

DECISION AND REASONS

The History of the Appeal

1. The Appellants, Mr and Mrs Ali, who are citizens of Pakistan, applied on 8 October 2013 for entry clearance to the UK as family visitors for six weeks. Their application was refused on 4 November 2013. The decision stated that their right of appeal was limited to the grounds referred to in Section

84(1)(c) of the Nationality, Immigration and Asylum Act 2002, which relates to human rights claims.

2. Their grounds of appeal, submitted in identical terms on 25 November 2013, address the substantive issues in the decision and conclude that “I humbly appeal under human rights act to grant my wife/husband and I a visa to visit our sons and granddaughters in the UK”. This is the only reference in their Notices of Appeal to the Human Rights Act.
3. On review on 18 February 2014 the Entry Clearance Manager upheld the decision. Under the heading “Preliminary Issue” he wrote:

“I initially note that I am limited to considering the appeal in relation to the Human Rights Act (HRA) and/or the Race Relations Act (RRA) as the appellant was correctly afforded a limited right of appeal as he applied as a family visitor post 25/06/2013. I kindly ask the Immigration Judge to consider the appellant’s right to a full appeal in the interest of continuity and fairness before considering his grounds for appeal any further.

The appellant has not alleged in his grounds of appeal that the decision breaches either the HRA or RRA.”

4. The appeal was heard by Judge Metzger at Taylor House on 11 September 2014. The Appellants were not legally represented; the Respondent was. The father of Mr Sadruddin Ali attended the hearing and gave evidence. In a determination of 16 September, promulgated on 24 September, 2014, Judge Metzger allowed the appeal. His reasoning addressed the merits of the refusal but did not address the issue of jurisdiction.
5. Permission to appeal was granted to the Respondent on 7 November 2014 by Judge De Haney on the basis that:

“The grounds of appeal assert that from 25 June 2013 the judge had jurisdiction in visit visa appeals only in respect of human rights & race relations. The judge makes no findings on these matters.”

6. The error of law hearing took place before me on 16 December 2014. By the time that I reached the appeal, at 11.10am, there was no appearance by the Appellants nor anybody on their behalf. I satisfied myself from the file that proper notice of the date, time and place of the hearing had been given to both of them, and had not been returned by the Post Office. In the exercise of my discretion I heard the appeal. Ms Everett briefly expanded orally on the permission application. I reserved my determination.

Determination

7. The issue is concise and discrete. The applications and the decisions were made after 25 June 2013, from which date Section 52 of the Crime and Courts Act 2013 limited appeals in visit visa applications to human rights and race relations grounds.
8. The only reference to those grounds in the Notices of Appeal are those which I have cited. A bare reference to the Human Rights Act is not a human rights claim. Nothing in the grounds of appeal amplifies it, and nothing in the determination relates to the human rights of the Appellants or their family in the UK. The Race Relations Act is not raised.
9. Without a human rights or race relations ground, the judge had no jurisdiction to entertain the appeal. The benevolent request of the Entry Clearance Manager for him to do so did not confer jurisdiction. For him to have assumed a jurisdiction which he did not possess was a material error of law.
10. The determination is set aside for want of jurisdiction.

Decision

11. The original determination was based upon an error of law. For want of jurisdiction it is set aside.
12. The Appellants do not have a right of appeal.
13. There can therefore be no fee award.

Signed

Dated: 17 December 2014

Deputy Upper Tribunal Judge J M Lewis