



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

Appeal Number: IA/53202/2013

THE IMMIGRATION ACTS

Heard at Bradford

On 6th January 2015

**Decision & Reasons
Promulgated**

On 19th January 2015

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**MUHAMMAD ZAHEER
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs B Smith, Counsel, instructed by Rana & Co Solicitors
For the Respondent: Mrs S Pettersen, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Mensah made following a hearing at Bradford on 24th March 2014.

Background

2. The appellant is a citizen of Pakistan born on 2 November 1980.
3. On 19th August 2013 he was granted indefinite leave to remain on the basis of his marriage to a British national. On 13th December 2013 he sought readmission but was refused under paragraph 320(7B) of the Immigration Rules on the grounds that he had obtained leave by deception, having admitted to the interviewing officer that he had only lived with his wife for a few days since arriving in the UK in 2011 and had no contact with her. She had only supported the application so that he could remain in the UK.
4. The judge dismissed his appeal against the refusal under the Immigration Rules.
5. The appellant appealed against her decision and, on 17th June 2014, permission to appeal was granted on the basis that the judge had failed to deal with his Article 8 rights even though they had been raised in the grounds of appeal.
6. This matter first came before my colleague Mr C N Lane on 31st July 2014. Mrs Pettersen informed me that on that occasion he set aside the decision of Judge Mensah with respect to Article 8 but preserved the findings made under the Immigration Rules.
7. Clearly the matter should have come back before Mr Lane, but he was unavailable, and accordingly I obtained a transfer order so that the appeal could proceed today.
8. I heard brief oral evidence from the appellant. He told me that he had been working in the UK for three years as a kitchen assistant until his leave had been revoked. He has a sister and brother-in-law, a British citizen, who live in Bradford and another brother-in-law, also a British citizen, who is sponsoring another sister to come from Pakistan. The remainder of his family, including his mother, live there. He has a number of close friends in Bradford, six of whom have come to support him in his appeal today.
9. Mrs Pettersen submitted that the appellant plainly cannot meet the requirements of the Immigration Rules, and there is no evidence that he would suffer any hardship on return to Pakistan where the majority of his family live.
10. Mr Smith accepted that the Rules could not be met but said that the appellant had established a substantial private life in the UK, with a strong social network. He has learned the English language and integrated well.

Findings and Conclusions

11. The judge did not deal with a ground of appeal which was pleaded before her and to that extent erred in law. The decision has been set aside and must be remade.

12. The starting point is the Immigration Rules. The appellant plainly does not meet the private life requirements as set out in paragraph 276ADE. He does not enjoy family life here with his spouse.
13. Whilst removal would interfere with the friendships he has developed here, he has no basis of stay in the UK and indeed has been guilty of using deception in the past. His closest family, aside from one sister, live in Pakistan. Any social network which he has established here could be continued from there by electronic means but in any event, clearly are not of such a strength as to demonstrate that removal would be proportionate.

Decision

14. The original judge erred in law and her decision has been set aside. It is remade as follows. The Appellant's appeal is dismissed under the Immigration Rules and with respect to Article 8.

Signed

Date

Upper Tribunal Judge Taylor

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