



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

Appeal Number: OA/20799/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 25 March 2015**

**Decision & Reasons Promulgated
On 13 April 2015**

Before

**MR JUSTICE CRANSTON
DEPUTY UPPER TRIBUNAL JUDGE FRANCES**

Between

**SHIRAZ AHMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Chohan, Counsel instructed by Marks & Marks Solicitors
For the Respondent: Ms A Brocklesby, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from a determination of First-tier Tribunal Judge Amin dated 15 October 2014. The appellant is from Pakistan and is a migrant worker in Saudi Arabia. He married the sponsor, Mrs Maryam Ahmed, in 2010. At one point there was an issue about the certification of the marriage which took place in the Pakistani Consulate in Saudi Arabia but that has now been resolved in the appellant's favour.

The sponsor, Mrs Ahmed, has three children. Two are in their 20's and one is in his late teens. She and the children are citizens of this country.

2. On 10 October 2013 the appellant made an application for entry clearance which was refused. The outstanding issue in the determination of the judge concerns whether the appellant met the financial requirements. The Entry Clearance Officer in a decision dated 7 November 2013 decided that the appellant and the sponsor, Mrs Ahmed, needed £62,500 in savings since savings were the basis on which the application was being made. Following an examination of the bank statements the Entry Clearance Officer decided that that requirement was not met. There was then a review dated 17 March 2014 but the refusal remained. The appellant appealed.
3. The grounds of appeal prepared by the solicitor were vague but Mr Chohan of counsel then appeared before the judge. Mrs Ahmed was present in court and gave evidence. The judge stated that she was not satisfied that the sponsor had shown at the date of application that she had £62,500 in her HSBC account for the previous six months, i.e. from 10 May 2013 to 10 November 2013. She stated that there were no bank statements for the period, May, June, August or September 2013. The statements produced showed a balance on 17 July 2013 of only £139.42. She also examined the bank account which the appellant had in Summit Bank, Karachi. She said that the closing balance there on 9 September 2013 was R824,182, some £4,824 "and the statement is more than 28 days prior to the date of application, 10 October 2013". She dismissed the appeal because she was not satisfied that paragraph E-ECP 3.1 of Appendix FM of the Immigration Rules had been met. There was then an appeal.
4. The First-tier Judge who granted permission to appeal said firstly that the appellant was required to show funds from May to November 2013 but in fact the correct date was April to October 2013; secondly, that it was arguable that the judge had erred because he had taken into account the fact that the sponsor had three children in calculating the £62,500; and, thirdly, that it was arguable that overall the appellant had available that amount taking into account the amounts in the account with Summit Bank in Pakistan.
5. Before us this afternoon Mr Chohan has accepted that the appellant did have to meet the figure mentioned by the judge, namely £62,500. In other words, the judge was right and had not taken into account the children at all. Then, with the help of Ms Brocklesby, Mr Chohan took us through the accounts of both Summit Bank and Mrs Ahmed's HSBC account. It seems that the appellant was making substantial savings from working in Saudi Arabia. In April, the Summit Bank account showed relatively small amounts, at one point equivalent to something like £4,500. By the end of May the amount was approximately £34,000, by 10 June it was something like £53,000 and by 11 June, £64,000. Mr Chohan then showed us the transfer which occurred on 19 July from the Summit account into Mrs Ahmed's HSBC account. That was in the sum of £72,984.

6. Mr Chohan accepted that by applying paragraph 11 of Appendix FM-SE of the Immigration Rules it was necessary to demonstrate that during the six month period the £62,500 amount had been met. Realistically, he accepted that in the early months of that six month period the figure had not been reached combining both accounts. Through the appellant's work in Saudi Arabia those savings were accumulated. Certainly in the last months of that six month period, looking at both accounts, the figure had been met. Mr Chohan submitted that if one looked at the date of decision the amount was there in the HSBC account. The whole aim of the rules was to avoid the appellant coming to this country and then relying on public funds. The intention of the rules was met because more than that sum was there in the account. It was still there at the time of the decision and, in his submission, subsequently. Both the appellant and Mrs Ahmed were trying to maintain family life in difficult circumstances where the appellant was working in a third country. Notwithstanding that the strict requirements of the rules had not been met discretion should have been exercised in the appellant's favour.
7. We can sympathise with the plight of both the appellant and Mrs Ahmed. We can see that since 2010 they had tried to make the best of a difficult situation. The appellant has tried to build up savings by working hard in a third country, Saudi Arabia. Notwithstanding that, we cannot see how the effect of the rules can be avoided. The plain fact is that the £62,500 target was not met over the period of the six months as required by the rules. The judge was right. The only course seems to be for the appellant to re-apply.

Notice of Decision

The appeal is dismissed under the Immigration Rules.

No anonymity direction is made.

Signed

Date 31st March 2015

Mr Justice Cranston

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 31st March 2015

Mr Justice Cranston