



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

Appeal Number: VA/14816/2012

**THE IMMIGRATION ACTS**

**Heard at Birmingham Sheldon Court  
On 19<sup>th</sup> February 2015**

**Decision & Reasons Promulgated  
On 26<sup>th</sup> February 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**MR MD KHALED AHMED  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER - DHAKA**

Respondent

**Representation:**

For the Appellant: No legal representation

For the Respondent: Mr D Mills (Home Office Presenting Officer)

**DECISION AND REASONS**

1. This was an appeal against the determination of First-tier Tribunal Judge J M Holmes, promulgated on 26<sup>th</sup> November 2012, following a hearing at North Shields on 13<sup>th</sup> November 2012. In the determination, the judge dismissed the appeal of MD Khaled Ahmed. 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 citizen of Bangladesh who was born on 5<sup>th</sup> January 1982. He appeals against a decision of the Entry Clearance Officer to refuse his application to make a family visit on 15<sup>th</sup> March, under the Immigration Appeals (Family Visitor) Regulations 2012, and the decision appealed against is dated 28<sup>th</sup> March 2012.
3. The appeal before Judge Holmes was specifically on the basis of a “paper appeal” without a hearing.

### **The Judge’s Findings**

4. The judge noted how the Appellant claimed in his VAF that he enjoyed a net monthly income after tax of some £515, but the Respondent Entry Clearance Officer had decided that there was no reliable evidence that demonstrated this level of income. Indeed, the content of the bank statements provided for a bank account operated by the Appellant was not consistent with this claimed income (see paragraph 5). In response to this refusal, the Appellant provided an income tax certificate, which he said was a genuine copy.
5. However, “This document lacks a unique business identification number that it would bear if it was genuine, so I am not satisfied that I can place any significant weight upon its existence or content” (paragraph 6), according to the judge. The judge also held that the Appellant had not produced a copy of a proper tax return “That he ought to have submitted to the tax authorities, and which would have recorded income that he had disclosed to them” (paragraph 7).
6. Accordingly, the judge was not satisfied that the bank statements relied upon demonstrated the net level of income as claimed. The judge gave additional reasons at paragraph 8.

### **Grounds of Application**

7. In detailed grounds of application, the Appellant states that the judge did not consider some of the documents, did not consider other documents properly, and failed to understand that the appellant was a small trader in Bangladesh.
8. On 18<sup>th</sup> July 2014 permission to appeal was granted on the basis of a possible error of law.
9. On 30<sup>th</sup> July 2014 a Rule 24 response was entered by the Appellant to the effect that the detailed Grounds of Appeal amount to no more than a lengthy disagreement with the determination of the judge. The Entry Clearance Officer had provided clear reasons for refusing the application and the ECM on review had provided further reasons.
10. It was the Appellant’s decision to ask for a “paper hearing” and the effect of this was that, “With all the inherent limitations in respect of testing evidence or dealing with the issues raised” was visited upon the Appellant.

## Submissions

11. At the hearing before me on 19<sup>th</sup> February 2015, Mr Aref Ahmed, the Sponsor, attended to assist the court. He explained that the Appellant was his first cousin. He said that he sponsored the Appellant on 10<sup>th</sup> February 2012. His application was refused on 28<sup>th</sup> March 2012. He appealed against that decision and this was refused by the First-tier Tribunal Judge on 26<sup>th</sup> November 2012. He made an application for permission to appeal to the Upper Tribunal that was granted on 18<sup>th</sup> July 2014.
12. This is a background to his attendance at the hearing on 19<sup>th</sup> February 2015. He said that he was willing and able to maintain and accommodate the Appellant at his residence during his short stay in the United Kingdom. He said that he had supporting documentation such as his earnings and his P60 to confirm this.
13. In reply, Mr Mills relied upon the Rule 24 response. He said that the judge could not be criticised for rejecting the evidence that was before him. The notarised evidence was not authenticated. The bank statement did not match the funds claimed in the Appellant's possession from earnings. The income tax certificate was not matched by an income tax return. Had the Appellant not asked for a "paper hearing" and had an explanation been provided, it may have been possible to show that the findings of the judge were unwarranted. In the event, there was no basis for this. This was simply a disagreement with the determination.
14. In reply, Mr Aref Ahmed submitted that the Appellant had deposited money in his account and this evidence was properly authenticated before the judge, and it was overlooked.
15. 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 the decision. Mr Aref Ahmed, who has attended court to try and assist with the appeal of his cousin, has focused almost entirely upon his own position, in maintaining that he would be able to accommodate and provide for the Appellant if he were to come to the UK. He has drawn attention to his P60 and to his earnings. However, this is not the issue.
16. The issue is the standing of the Appellant in Bangladesh. The judge gave proper reasons for rejecting the evidence that he did, after referring specifically to the basis of the refusal by the Entry Clearance Officer, and giving a clear explanation as to why the bank statements could not be relied upon, the tax certificate could not be depended upon and why the statements covering only a short period of two months were inadequate (see paragraph 8).
17. The judge had to make his findings within the constrained circumstances of a "paper hearing" and this was the direct result of the Appellant himself asking for a hearing other than one that was an oral hearing.
18. There is no error of law in the judge's findings.

**Notice of Decision**

19. There is no material error of law in the original judge's decision. The determination shall stand.

No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

25<sup>th</sup> February 2015