



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/10633/2017

**THE IMMIGRATION ACTS**

Heard at Manchester  
On 16 May 2018

Decision & Reasons Promulgated  
On 24 May 2018

Before

DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL

Between

NEHA YAZDANI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr C Timson, Counsel instructed by Whitefield Solicitors Ltd  
For the Respondent: Mr C Bates, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appeal of the appellant, a citizen of Pakistan, against the decision of the respondent made on 8 September 2017 to refuse leave to remain came before Judge Brookfield of the First-tier Tribunal (FtT) on 19 February 2018, who in a decision sent on 28 February 2018 dismissed it.
2. The principal focus of the grounds is on the judge's conclusion that the appellant did not meet para 276ADE(v) of the Immigration Rules because she had not spent half of

her life living continuously in the UK. The grounds contend that in so concluding the judge erred.

3. In the first place it is contended that such a conclusion was in flat contradiction with what the judge stated at para 9(xiv), namely that “[t]he appellant has now lived in the UK for twelve years”. Amplifying the written grounds Mr Timson said that was plainly wrong since as a matter of simple arithmetic the appellant, having been born in July 1994 and having come to the UK in October 2005, had lived more than half of her life in the UK. I see no force in this contention since it was the very clear finding of the judge elsewhere in the decision that the appellant had not shown that she had lived in the UK since October 2005 continuously, and indeed it was the latter finding that was the main target of the grounds. In para 9(xiv) the judge does not state that the appellant had lived in the UK for twelve years continuously.
4. The challenge to the judge’s finding that the appellant had not shown she lived in the UK continuously is primarily put on the basis that he gave inadequate reasons.
5. Reference is made to the evidence the appellant produced to show she had registered to vote and that she had registered with a GP. It was submitted that the judge failed to consider the documentary evidence produced as to its cumulative effect, overlooked that without a visa a person cannot get much documentary evidence such as bank accounts, job-related documents and neglected to take stock of the fact that without a visa a person cannot go out of the country.
6. I am unpersuaded by these grounds. The judge noted that the respondent accepted on the basis of the school records that the appellant lived in the UK continuously from her arrival on 9 October 2005 to March 2011. However, like the respondent, the judge did not accept that the appellant had provided sufficient evidence to show that she had continued to live continuously in the UK between March 2011 and January 2017. In so concluding the judge took account of the entirety of the documentary evidence. Although the judge goes through the different items of evidence produced by the appellant individually, he makes clear at para 8(viii) that he considered them “in the round”.
7. It is important to bear in mind that the disputed period comprised nearly six years. I asked Mr Timson to draw up a schedule of the documents produced to evidence residence over this period. According to that schedule there was no documentary evidence covering March 2011-April 2014; for 2014 the only evidence produced was a poll card dated 22 May 2014; in 2015 the only evidence produced was a poll card dated 7 May 2015 and Capita letters dated 23 July and 17 August; in 2016 there was only one medical record from the GP dated 20 June, a beauty make up course document dated 10 August 2016 and a document showing a Pakistan passport issued to her on 1 September; in 2017 there were two medical records dated 7 August 2017 and 23 August 2017. Considering the length of time involved, this documentation left very considerable gaps. There was also a Halifax Bank card valid from October 2014 to September 2017 but no bank statements accompanying it
8. The judge’s observations regarding these various documents were entirely reasonable. In particular, there was nothing untoward about the assessment that all

the polling cards showed was that the appellant had registered to vote. Not only was there therefore scant evidence showing residence over this period; there was also a lack of adequate explanation for why the appellant had not been able to provide her bank statements or mobile phone bills or any personal correspondence. As regards the bank statements the judge noted at para 8(vi):

“The appellant claims that she had a bank account in the UK which has now been closed and that she has been unable to provide her bank statements, as her bank require ID from her. I note the respondent provided the appellant with a certified copy of her current Pakistan passport with the letter of refusal to enable her to obtain her bank statements. Bank statements showing regular use of her bank account would assist her in establishing she has had a continuous presence in the UK. I note the appellant has not provided copies of her bank statements with her appeal documents.”

9. In my judgement the assessment made by the judge of the evidence produced by the appellant, that it failed to prove her continuous residence, was entirely within the range of reasonable responses. Mr Timson emphasised the point that the judge failed to take into account the practical difficulties that the appellant would have encountered if she had left and returned to the UK without a visa. That however overlooks that the burden of proof lay on the appellant and the judge cannot be faulted for finding that the evidence relied on was insufficient to discharge that burden.
10. The grounds also assail the judge’s treatment of the appellant’s Article 8 circumstances outside the Rules, his treatment of s.117B considerations at para 8(xii) in particular. I see no merit in this assertion. The judge properly counted in the appellant’s favour that she spoke English. The judge accurately observed that she had not shown financial independence (since she was wholly dependent on her brothers and sister-in-law to provide maintenance and accommodation), but at the same time gave her credit for the fact that she had not been a burden on public funds. The judge properly counted against the appellant at para 8(xv) that her private life was established during a period when she had no permission to remain, apart from six months between 9 October 2005 and 9 April 2006.
11. For the above reasons I conclude that the grounds wholly fail to establish any legal error on the part of the FtT judge. Accordingly the decision of the judge to dismiss the appellant’s appeal must stand.

No anonymity direction is made.

Signed:

Date: 23 May 2018



Dr H H Storey  
Judge of the Upper Tribunal