



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/04162/2019

THE IMMIGRATION ACTS

Heard at Field House
On 20 September 2019

Decision & Reasons Promulgated
On 23 September 2019

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MR MUHAMMAD SAJID
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not present or represented

For the Respondent: Mr L Tarlow (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant against a Decision and Reasons of Judge McLeese in the First-tier Tribunal promulgated on 24 May 2019. The judgment followed a hearing at Newport on 1 May 2019.
2. The appellant, a national of Pakistan born on 9 September 1984 had made an application for leave to remain in the UK on the basis of his private and family life. The application was refused by the Secretary of State on 18 February 2019.

3. The basis of the appellant's claim was that he was in a relationship with an Indian national with ILR in the UK. His Indian national partner was also pregnant. It was argued before the judge that they were in a genuine and subsisting relationship and therefore had family life together which they would not be able to enjoy in Pakistan because his Indian partner would be unable to relocate to Pakistan with him.
4. The judge dismissed the appeal having found the appellant's favour with regard to the relationship being genuine and subsisting but against the appellant on the basis that there were no insurmountable obstacles to the relationship continuing in Pakistan, there were no very significant obstacles to the appellant's integration into Pakistan and there were no unjustifiably harsh consequences for the appellant in the appeal being refused.
5. Permission to appeal was granted by a judge of the First-tier Tribunal on 5 August 2009.
6. The judge granting permission found it arguable that the first-tier Tribunal had attached insufficient weight to the identification by the appellant of the relevant issues concerning the relationship between Pakistan and India and the impact of that relationship on citizens of those countries going to each other's countries for settlement.
7. The grounds then suggest that the judge erred in his finding that the appellant had said that his wife could go to Pakistan with him when she had only said that it was possible. The grounds suggest that the evidence indicated that it was quite simply not possible for either party to the couple to live in the other's country.
8. It is suggested that the judge gave inadequate consideration to their evidence about the visa requirements each would need to go to the other's country. Essentially, the complaint was the judge had not paid adequate attention to the difficulties faced between Indian nationals settling in Pakistan and Pakistan nationals settling in India.
9. The matter was listed for an initial hearing before me on 20 September 2019 and both the appellant and his representatives were notified of the hearing date. On the morning of the hearing the Tribunal received a letter from the appellant's representatives indicating they had not been instructed to represent him on the 20 September but the appellant had confirmed that he would be attending in person. In the event the appellant did not attend and had still not attended at 1230 when the case was called on. I therefore proceeded in his absence.
10. Having read the Decision and Reasons of Judge McLeese with care I can find no error of law in that decision either material or otherwise.
11. The judge found against the Secretary of State and in favour of the appellant in relation to the nature of the relationship at paragraph 27 and at paragraph 28 expressed himself satisfied there was family life between them. The judge noted that the partner is an Indian citizen aged 35 who has indefinite leave to remain in the UK and who is working but six months pregnant. The judge noted that she would be

prepared to go to Pakistan with the appellant but would prefer to remain in the UK. Having checked the record of proceedings, that was indeed the evidence before the judge. Again in accordance with the evidence before the Judge, he found that neither party had produced any real evidence that it would not be possible for either to enter the other's country as a spouse and the evidence they gave with regard to visa requirements were extremely vague and seemed to relate to difficulties in obtaining copies of documents rather than any real issues in obtaining visas.

12. The judge also noted misleading evidence in that the appellant had indicated in his witness statement that he had no ties whatsoever with Pakistan, whereas in fact he is in regular contact with his mother and brother and is in telephone contact with them several times a week. The judge also noted that the appellant had given misleading evidence about his wife's language difficulties, stating that she could not speak Urdu whereas in her own evidence she confirmed that she did.
13. The judge noted that he had been told that the Indian partner would not be safe in Pakistan but also noted he had been provided with no evidence to that effect. At paragraph 38 the judge noted that whilst he was aware that there were difficulties between the two countries, there was no evidence before him to support the contention that the Indian national partner could not live and work in Pakistan. Life might be a little difficult but that did not amount to insurmountable obstacles.
14. I can determine no error of law in the judge's reasoning. He took all of the evidence into account and reached properly reasoned conclusions based on the evidence.
15. This is a case where permission to appeal should not have been granted.
16. I therefore find the grounds are not made out and there is no material error of law in the First-tier Tribunal's judgment. The appeal therefore to the Upper Tribunal is dismissed.

Notice of Decision

The appeal is to the Upper Tribunal is dismissed

No anonymity direction is made.



Signed

Date 20 September 2019

Upper Tribunal Judge Martin

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

A handwritten signature in black ink, appearing to read 'Martin', written in a cursive style.

Signed

Date 20 September 2019

Upper Tribunal Judge Martin