



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

Appeal Number: HU/18510/2018

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On 30 October 2019
Extempore**

Decision & Reasons Promulgated

On 18 November 2019

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MRS FATIMAH ALI SALIH KHALEEFAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Lawson, Cohesion Legal Services

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against a decision of First-tier Tribunal Judge Davies promulgated on 5 June 2019 dismissing her appeal against the decision of the respondent to refuse her entry clearance to the United Kingdom to join her husband whom I refer as the sponsor.
2. The ground of refusal of the application is relatively narrow. It is that the respondent, whilst not apparently disputing the authenticity of the wage slips and the bank statements showing corresponding deposits of the relevant wages that this was not a genuine relationship of employment.

The reasons given for that are relatively thin and are in effect value judgments about the nature of the relationship which followed from interview. I note in passing that that interview does not appear to be in the bundle nor does it appear to have been served or taken into account by the judge.

3. The matter proceeded before the judge, the appellant maintaining that the relationship between the sponsor and his employer was a proper one and that therefore the requirements of the Immigration Rules were met. The appellant did not call evidence from the employer. The judge heard evidence from the sponsor alone, the sponsor was cross-examined.
4. The judge's findings are somewhat terse, bearing in mind that what was being alleged here is that, despite what the documents appear to show, there was in fact no real employment and that therefore the requirements of the Immigration Rules were not met. The judge said that there were no credible explanation for the absence of the employer and that the sponsor was a wholly unbelievable witness, describing his employment as incredible and that he was unable to give detailed evidence of the exact nature of his duties, the judge concluding "I have no doubt whatsoever that the sponsor is not employed as claimed taking that into account it is clearly a serious matter the documents have been produced in the form of wage slips and bank statements which do not generally represent the true situation.
5. The appellant sought permission to appeal on the grounds that the judge had failed to give reasons for his conclusions in particular failing to explain why he found evidence to be implausible, incredible or unreliable. It is also averred at [11] that the claimed employment is not a genuine reflection of the truth is tantamount to an allegation of forgery which had not been a submission made by the Secretary of State.
6. Permission was made after a renewed application by Upper Tribunal Judge McWilliam on 26 September 2019 and she stated whilst the judge may have raised legitimate concerns about the appellant's evidence it was arguable he had not considered the evidence from the employer in the round see [8].
7. This is as I explained during submissions a reasons challenge but there is also the fact that the judge simply does not say what he found about the evidence from the employer at all. There was a witness statement from the employer but the judge says nothing about what weight he attached to that. Whilst that is not in itself a sufficient reason to conclude that the decision was flawed, I consider that in the particular circumstances of this case there is simply an almost total inadequacy of reasons. What the judge does is simply to state conclusions; he does not explain how he came to those conclusions on the basis of the evidence which in this context is in my view a material error.
8. In taking these matters together I am satisfied that the decision is unsafe and cannot be sustained. I conclude that the decision of the First-tier

Tribunal involved the making an error of law and I set it aside to be remade.

Remaking the decision

9. Having found that the decision of the First-tier Tribunal involved the making of an error of law and having concluded it would be necessary to remake it in its entirety I adjourned the matter so that I could hear evidence from the sponsor and also from the sponsor's employer. Both of them adopted their witness statements explaining how the need for the role that the sponsor fulfils arose. In brief Mr Haddad explained that he is a consulting engineer who runs his own consultancy business and owing to a lack of business in the United Kingdom decided it would be sensible to seek work in Libya. He was aware of the appellant through his brother and concluded it was sensible to employ him as he would be able to provide leads for him in Libya and also Algeria where there was a significant degree of work.
10. Having heard this and in the absence of any submissions to the contrary from the respondent, I am satisfied that the evidence I have been given by the sponsor and the sponsor's employer is reliable. I am satisfied accordingly that the sponsor is genuinely and properly employed by his employer Mr Haddad who operates as Pipe Stress Services Ltd and accordingly in the absence of any other reasons for refusing entry clearance I am satisfied that the appellant did fulfil the requirements of the Immigration Rules.
11. As I am satisfied that she has fulfilled the requirements of the Immigration Rules and whilst this is an appeal technically under human rights grounds it follows that there is, of course, no public interest in refusing her entry clearance to the United Kingdom given that she meets the requirements of the Rules and for these reasons I am satisfied that it would be a breach of the United Kingdom's obligations pursuant to the Human Rights Convention specifically Article 8 to refuse her entry clearance to the United Kingdom and I allow the appeal on that basis.
12. I would however add that although this has been allowed on human rights basis given the finding that the requirements of the Immigration Rules were met it would be appropriate in the circumstances for the Secretary of State to issue entry clearance on the basis that the appellant satisfied the requirements of the Rules.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside.
2. I remake the decision by allowing the appeal on human rights grounds, having concluded that the appellant did meet the requirements of the Immigration Rules.

Signed

Date 11 November 2019

A handwritten signature in black ink, appearing to read 'James Rintoul'. The signature is fluid and cursive, with a large initial 'J' and 'R'.

Upper Tribunal Judge Rintoul