



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/22290/2018

THE IMMIGRATION ACTS

Heard at: Field House
On: 14th July 2021

Decision & Reasons Promulgated
On 29th July 2021

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Gurdip Singh
(no anonymity direction made)

Appellant

And

The Secretary of State for the Home Department

Respondent

For the Appellant: Mr West, Counsel instructed by FR Solicitors
For the Respondent: Mr Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of India born on the 30th May 1969. He claims to have been living continuously in the United Kingdom since his arrival in January 1993. The burden of proof to prove that long residence is on the Appellant, and it must be discharged on the standard of 'a balance of probabilities'. If he can prove that matter of fact, it is common ground that he will be granted leave to remain on human rights grounds, pursuant to paragraph 276ADE(1)(iii) of the Immigration Rules.

2. The Respondent accepts, having had regard to the documentary evidence provided, that the Appellant has been living in this country since 2005/2006. It is not accepted that the Appellant was here any earlier than that.

Case History

3. This matter first came before me on the 12th March 2021. It was a remote hearing conducted by way of 'skype for business'. I was sitting at Manchester Civil Justice Centre; the Appellant was represented by Mr West, as he is today, and the Respondent by Senior Presenting Officer Mr Bates.
4. The appeal before me concerned the decision of the First-tier Tribunal (Judge GA Black). Judge Black had dismissed the Appellant's appeal on the 19th February 2020. Permission to appeal against that decision was granted by First-tier Tribunal Judge Kelly on the 21st April 2021. Judge Kelly had considered it arguable that Judge Black had erred in her approach to the evidence, and to the test, still then relevant, under 276ADE(1)(vi).
5. My written decision of the 12th March 2021 is headed 'Decision on Error of Law and Directions'. In material part it reads as follows:

"The First-tier Tribunal began by noting that this was not the Appellant's first appeal. An earlier human rights application, made on grounds of long residence, had been rejected and an appeal dismissed by the First-tier Tribunal in 2016 on the grounds that the documentary evidence only established the Appellant to have been in the United Kingdom from about 2005. There was insufficient evidence before the Tribunal on that occasion to support a finding that he had been living here since 1993 as he claims. That decision was the Tribunal's starting point. From there the Tribunal was required to evaluate the new evidence. This comprised the oral evidence of the Appellant plus four witnesses: the Tribunal directed itself that there was no further documentary evidence produced, in particular nothing to show that the Appellant had been living in this country between 1993 and 2004. The case therefore turned on the Tribunal's evaluation of the witnesses. The Tribunal concluded that the oral evidence given, by both Appellant and his witnesses, was unreliable, inconsistent and vague. It was not capable of discharging the burden of proof and the appeal was dismissed with reference to 276ADE(1)(iii) of the Immigration Rules.

On the alternative limb of the Appellant's case, that concerning 276ADE(1)(vi) of the Rules, the Tribunal directed itself that it was for the Appellant to demonstrate that there were "insurmountable obstacles" to his integration in India. Having regard to the fact that the Appellant grew up in that country, is familiar with the language and religious customs, retains familial connections and could receive medical care there, the Tribunal was not satisfied that this test was met, and the appeal was further dismissed under 276ADE(1)(iii).

The written grounds of appeal challenge both aspects of the decision.

Issue 1: 20 years' long residence

As I allude to above, the key question here was whether the Appellant had demonstrated in this fresh claim that there was evidence to show that he was living in this country prior to 2005/6. In order to do this he relied primarily on the evidence of his four witnesses, all of whom averred to have known him in this country prior to 2005. He did however also provide two items of documentary evidence in support of his claim. The Appellant's bundle contained a letter dated 5th February 2010 from a firm based in Banbury called 'Plastic Parts Direct Ltd (APM)'. This states that the Appellant was employed there between the 5th June 1995 and the 30th April 2000. There was further a letter from the Guru Nanak Medical Centre in Southall stating that the Appellant had been registered as a patient there since 1995. Before me the Secretary of State accepts that the First-tier Tribunal has erred in its approach to that documentary evidence.

As to the GP letter, the Tribunal simply notes that it had been available before the previous Tribunal which had "found that this alone was insufficient to show 20 years continuous residence" [at §9]. The First-tier Tribunal then dealt with the employer's letter at its §10:

"The appellant has been unable to provide documentary evidence from HMRC to support his claim that he has worked in United Kingdom since 1993. The HMRC evidence starts from 2006. I accept that he has worked unlawfully but there is no evidence of employment from 1993. There is a copy of a letter dated 5.2.2010 from APM which states that he was employed from 5.6.95 - 30.4.2000 but I place little weight on this letter in the absence of supporting evidence. The documentary evidence establishes that the appellant has been in the United Kingdom since 2006".

Mr Bates accepts that two errors in approach arise here. The first is that having acknowledged that it would be difficult for an illegal migrant to corroborate the claimed employment with reference to HMRC records, the Tribunal goes on attach "little weight" to the letter itself without explaining why. I accept that this error is made out. It would have been unarguably open to the Tribunal to attach *some* weight to this document but nevertheless find it insufficient to discharge the burden of proof, but the formulation "little weight" suggests that the Tribunal found the document in some way to be intrinsically lacking in probative value. If that was the case, no reasons are given to explain why. Secondly, in this credibility assessment the Tribunal was obliged, even in this human rights claim, to take a *Tanveer Ahmed* approach to the evidence. It was required to weigh all of the evidence together. Mr Bates did not consider it evident that this is what the Tribunal did, and given the approach to the GP letter, I would have to agree. The fact that a previous Tribunal had found that letter *alone* to be insufficient did not obviate the need to weigh it in the balance, with the remaining evidence, in the present appeal.

Mr Bates accepted that absent a holistic *Tanveer Ahmed* assessment the entire credibility assessment of whether the Appellant lived in this country prior to 2005 would need to be remade, and this would require a fresh evaluation of the witnesses. It is not therefore necessary for me to address the discrete grounds challenging the approach taken to the oral evidence. The decision insofar as it relates to 276ADE(1)(iii) is set aside in its entirety and falls to be remade.

Issue 2: very significant obstacles to integration

If the Appellant failed to demonstrate that he has been living in the United Kingdom for a continuous period of 20 years it remained open to him to argue that he should nevertheless be granted leave on private life grounds under paragraph 276ADE(1)(vi). This requires him to show that there would be “very significant” obstacles to his integration in India. At its §17 the Tribunal twice misdirected itself that he had to demonstrate “insurmountable” obstacles. Before me Mr West very sensibly conceded that this error was not, having regard to the Tribunal’s reasoning overall, in any way material. The findings were such that the Appellant could not hope to meet either of these very demanding tests, which in any event have been found to overlap in light of the definition set out in paragraph EX.2 of Appendix FM.”

6. I directed that the matter come back before me so that the decision, insofar as it related to paragraph 276ADE(1)(iii) of the Immigration Rules, could be remade.

The Re-Made Decision

7. The matter was listed for an all day, face to face, hearing because at the stage that I gave my listing directions, I was under the impression that the Appellant would be calling four additional witnesses. As it happened, on the day, only one additional witness appeared, Mr Dharmveer Singh Aujla. His evidence, and that of the Appellant, are summarised below.
8. The Appellant and Mr Aujla were late to court. They were not ready to proceed until 12.00, despite the fact that the hearing had been due to start at 10.00. The Appellant explained to me that he had attended his solicitor’s office in Hounslow this morning thinking that he would be giving evidence ‘remotely’. He thought that because that is what he had been told by the solicitor. I noted that the ‘notice of hearing’ clearly stated that the hearing would be at Field House. I further noted however, that the Tribunal had not served that notice on the Appellant himself, only on the solicitors: the same solicitor who had allegedly told the Appellant that it would be by remote means.

The Evidence

9. The Appellant produced a large bundle of documents. Witness statements were provided from five witnesses who were not in attendance. These were all signed and appended with copies of the deponent’s British passport. Each individual attested to having known the Appellant for various lengths of time. Mr Avtar Singh Jhamat states that he has known the Appellant since 1995; Prem Singh Sandhu has known him since 1993; Satinder Pal Singh since 1995; Parveen Kumar Dahiya some 17 years and Dharamjit Singh since 2004. There were in addition a series of documents said to emanate from villagers in the Appellant’s home area in the Punjab. The import of this evidence was that both

of his parents have now passed away and that the family homestead has, in the absence of any family, been taken over by other locals.

10. For the purposes of this decision I need not set out any of the documentary evidence relating to the period since approximately 2005, since it has been accepted, at least since the decision of First-tier Tribunal Judge Richards-Clarke on the 5th February 2016, that the Appellant has lived continuously in the UK since that time.

11. The documentary evidence relating to the period prior to that is, as Mr West acknowledged, scant. The following material is advanced as capable of demonstrating residence in the UK prior to 2005:

- A letter dated 13th December 2015 from Harjit Singh, Vice President of the Gurdwara Sri Guru Singh Sabha Southall, stating that the Appellant has been personally known to him for 16 years and that he volunteers at the Gurdwara
- A letter dated 14th May 2019 from Virendra Sharma MP for Southall, stating that he has known the Appellant for “some years”. He writes “Mr Singh has been living in the UK since 1993, as I understand it and within my constituency since 2000”
- A letter dated 1st February 2010 from a Dr Gulbash Singh of the the Guru Nanak Medical Centre in Southall stating that the Appellant has been registered there as a private patient since 1995
- A letter from ‘Plastic Parts Direct Ltd’ stating that the Appellant was employed there as a ‘general assistant’ from the 5th June 1995 until the 30th April 2000 and that he resigned from his job due to “personal reasons and family circumstances”

12. The Appellant gave oral evidence with the assistance of a Punjabi interpreter. He averred that he entered the UK by lorry in 1993. In response to Mr West’s questions the Appellant said that when he first arrived he had lived with a friend Harjit, but after some time Harjit said that he didn’t have room and so he took him to another house where a family were living. The Appellant rented a room there. The son of that family, then young at the time, was the witness Dharmveer Singh Aujla. The Appellant thinks he lived in that house between 1995 and 2000. He spent his time visiting the Gurdwara, going to a pub in Southall called the ‘Glassy Junction’ and visiting his friends Harjit and Amardeep.

13. Mr Clarke put it to the Appellant that there was a divergence between his evidence, and that given in writing by Dharmveer Singh Aujla. The Appellant had just told the Tribunal that he lived in Mr Aujla’s household; Mr Aujla seemed to think he was a regular visitor. The Appellant said that Mr Aujla was very young at the time, and as the Appellant was coming and going maybe he

had not understood. The Appellant still visits that house, but he maintains that he did live there. Mr Clarke put it to the Appellant that he and Mr Auja could have concocted this story about them living together. The Appellant denied this. The Appellant maintained that he had stayed at the Auja family house in Uxbridge Road over a number of years.

14. Mr Clarke asked the Appellant why apart from Mr Auja, none of witnesses whose statements appear in the bundle, had attended court. He said one is in India, two could not come because of Covid. They do support his claim, they just couldn't come.
15. The Appellant was asked about the letter in the bundle from Mr Virendra Sharma MP. The Appellant confirmed that he has met Mr Sharma personally. The first time he met him was during the Vaisakhi spring festival procession in Southall in 1994. His friend Harjit introduced them. He visited him at his office a couple of times after that and has also met him at the Gurdwara. Mr Clarke put it to the Appellant that there was an apparent discrepancy on the face of the letter since the MP had written that the Appellant had been a resident of Southall since 2000, whereas it was the Appellant's evidence that he had lived in the area the whole time. The Appellant was unable to comment on that; he reiterated that he had met the MP in a line of people serving food at the Gurdwara.
16. The Appellant said that when he first arrived he did ad hoc work for an builder. After that, from 1995, he worked at a plastics factory in Banbury. Then he got a job fitting windows. He also worked in a shop.
17. Mr Clarke's cross-examination then proceeded to probe the Appellant's allegations about his previous solicitors, Malik Law Ltd. The sum of these allegations is that Maliks did not manage his case competently, and that they asked witnesses to sign statements which were inaccurate. Mr Clarke took the Appellant to the witness statement signed by Mr Satinder Pal Singh: Mr Singh makes an allegation that even though he has known the Appellant personally for 22 years, Mr Malik told him to say in a statement that it was no more than 11 years. The Appellant agreed that this was a serious allegation but maintained that Maliks did not handle his case properly. He did however accept that he has not made a complaint against the firm, for instance to the Solicitors Regulatory Authority. He said it was because he was 'illegal', that no one was guarding him, and he was unaware that such a thing was possible. Mr Clarke suggested that perhaps it was more likely that Satinder Pal Singh had changed his evidence to suit the Appellant's claim. The Appellant simply said that Malik Law had not dealt with the case properly.
18. Mr Clarke asked the Appellant about his evidence that he used a false National Insurance number over a number of years. He had written in his statement in 2019 that if he had "been given more time" he could have sought confirmation from HMRC that this other number had been used. Mr Clarke asked why that

evidence had not yet been produced, given the time that had passed since the statement (over two years). The Appellant said that he had called HMRC last year but they said that they do not have the records. Mr Clarke queried why the Appellant had not written to the HMRC. He explained that it was because they had told him over the phone that they did not have the records. He agreed that the solicitors should perhaps have written. He denied inventing the phone call. He said that a friend had made the call on his behalf because his English is weak. It was the friend who is at court – Mr Aujla.

19. A key part of the Appellant's case is the letter said to be from the Appellant's previous employer. It is headed 'Plastic Parts Direct Ltd – Advanced Plastic Mouldings'. It states that the Appellant worked there from 5th June 1995 to the 30th April 2000. The letter bears the address Unit 8 Overfield, Thorpe Way Industrial Estate. Mr Clarke produced two documents which he submitted seriously undermine the reliability of that document. The first is a print out from the Companies House record. This shows that 'Plastic Parts Direct Limited' was not incorporated until the 7th August 2003; it gives the company's registered address as 10 Manor Park, Banbury. The record shows that APM was incorporated as a company on the 31st October 1997; its registered address in Kings Cross, London. Mr Clarke put it to the Appellant that none of that information accords with what it on the letter he has produced. Mr Clarke further relied upon the terms of the Company Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 which make it a legal requirement for a company's registered address to appear on its stationary. The Appellant said that he cannot assist; all he can say is that he worked there. A friend had got him that job, and subsequently got him that letter confirming that he had worked there. That friend is now in Canada. I asked the Appellant to clarify what work he had done at the factory. He said that he had worked in the packing department. He packed the plastic components into boxes. There were three others in the department "like him". When I asked him what he meant he said "illegals". They were always paid in cash.
20. Mr Clarke asked the Appellant to explain why three letters from officials at the Gurdwara Sri Duru Singh Sabha in Southall gave apparently conflicting information. One of the temple's Vice Presidents, a Mr Sohan Singh Sumra, wrote to say that the Appellant had been a regular worshipper there since 2008 and that he volunteers in the *langar* (the kitchen distributing free food in accordance with Sikh custom). A different Vice President, Mr Harjit Singh, wrote in 2015 to say that he had personally known the Appellant "for the last 16 years": this would place him at the Gurdwara in 1999. The Appellant simply said that Mr Singh knew him much better than Mr Sumra.
21. The Appellant was asked about when he had first met Mr Jhamat, someone who had written a statement and who had employed the Appellant over a number of years as a window fitter. The Appellant said that he had met him in 1995. Mr Clarke put it to him that his written statement says that it was 2002.

The Appellant explained that Mr Jhamat's statement had originally been drafted wrongly by the solicitor and that it had subsequently been amended. They had met in the Gurdwara in 1995. He had started working for him part time in 2004 and after a couple of years went full time. He worked fitting windows until 2017. Mr Clarke put it to the Appellant that according to a letter from Mr Jhamat's company 'Sunrise Glazing', the Appellant had been employed there since 2002. The Appellant said that the "girls must have changed the dates", by which I understood him to mean the administrative staff at Sunrise Glazing.

22. The Appellant was asked about two letters he had produced from the Guru Nanak Medical Centre in Southall. They are both purportedly from Dr Gulbash Singh. The first is dated 1st February 2010, and the second the 7th March 2018. Mr Clarke put it to the Appellant that the signatures on the two letters were completely different. The Appellant said he could not explain that, he had simply asked for a letter and had collected it from the reception.
23. In answer to my questions at the close of his oral evidence the Appellant confirmed that he had travelled into the UK in the back of a lorry. He had sold the family land, which he had farmed prior to leaving India, and had given it to an agent who had facilitated his journey. He said that having landed at Dover he was taken and dropped at Uxbridge Station where a friend who lived in Southall came and picked him up - this is the Harjit that he had referred to earlier in his evidence. Harjit is back in India now. The Appellant said that he had supported his parents thereafter by sending them what he could. His mother died in 2014 and his father died in 2016.
24. The second witness was Mr Aujla. He adopted his written statements. He confirmed that he believes that he met the Appellant in about 1995, when he was around five years old: Mr Aujla was born in 1990. He said that the Appellant had lived in his house. He remembers the Appellant taking him to school, shopping and to the park. He called him "chacha" which means uncle, and can remember the Appellant and his father sitting together in the lounge talking with other friends. This was at his family home in Uxbridge Road. The Appellant slept in the bedroom that Mr Aujla now occupies today. Mr West asked Mr Aujla to explain why he had not mentioned this in his witness statement, where he simply says that the Appellant was a regular visitor to the family home. Mr Aujla said that sometimes the Appellant would come and go, depending on where he was working. He agreed that it would have been more accurate to say that the Appellant stayed at the house rather than living there - he did not, as far as Mr Aujla could recall, keep his personal possessions there. Mr Aujla was unable to comment on how the Appellant first came to know his family, as he was too young at the time.
25. The bundle contained a series of photocopied photographs depicting family groups together in various locations. Mr Aujla had the colour originals with him and they were shown to me. There were ten photographs in total and Mr

Aujla was given two coloured pens. He drew pink circles around the individual in the pictures that he identified as the Appellant, and blue circles around pictures of himself. The photos were said by Mr Aujla to depict the following:

- i) Images 1 and 9 show a family group of adults and children outside the family home in Uxbridge Road. The Appellant is in the photograph, as is Mr Aujla. He estimated that he was about 8 or 9 at the time, which would mean that the photograph was taken in 1998 or 1999. He pointed out a young child who appears in the pictures whom he identified as his younger brother, who is seven years younger than him;
- ii) Image 2 shows three men and two children sitting in the lounge of the house in Uxbridge Road. One of the men is the Appellant, the other Mr Aujla's father and the third an unknown 'uncle' with a little girl. Mr Aujla identifies himself in the picture and estimates that he was about 6 or 7, which would mean that the image was taken in 1996 or 1997;
- iii) Images 3, 4, 5, 6, 7 and 8 were all taken at a beach, which Mr Aujla thought would be either Brighton or Bournemouth because that's where his family always went. After some discussion (the beach is sandy as opposed to rocky and there are coloured beach huts in the background) he agreed it was Bournemouth. The Appellant is shown, along with Mr Aujla and his family. Mr Aujla noted that he was "a bit more chubby" at that stage and he thinks that this was when he was about 10 or 11, which would place that trip in approximately 2000 or 2001;
- iv) The final image shows the Appellant with two children on a sofa. Mr Aujla considered that he looks older in this image: he thinks he was again about 10 or 11. The other child is his younger brother, who would then have been about 3 or 4.

26. In cross examination Mr Clarke put it to Mr Aujla that we had no means of knowing whether the individuals depicted in the photographs were in fact him and the Appellant. Mr Aujla laughed and said that all he could say was that he knew it was him.

Submissions

27. Mr Clarke asked me to find that the Appellant had failed to discharge the burden of proof upon him. The evidence relating to the period in issue – technically July 2001 – 2005 but more broadly from 1993 on, is scant and what there is can properly be found to be unreliable. As the documentary evidence, the Secretary of State pointed out that there were deficiencies in each item. The letters from the GP were not reliable as the signatures on each, both ostensibly from the same doctor, were patently different. The letter from the plastics

manufacturer was wholly unreliable as it bore no relation to the records for either of the companies mentioned held at Companies House; furthermore the Appellant's evidence on how it was obtained was not credible. The letter from the MP added little given that the MP was vague as to when he had first met the Appellant, it was likely that it was written by surgery staff relying upon information provided by the Appellant himself and as he had pointed out in his evidence, MPs meet hundreds of people all the time so Mr Sharma could not be expected to recall when he had met the Appellant. The various letters from the Gurdwara were odd and raised yet more questions given that different Vice Presidents apparently thought that the Appellant had started attending there at different times. As to the oral evidence Mr Clarke asked me to find the Appellant's evidence unhelpful and evasive. His account of the telephone call to HMRC was not at all credible. He asked me to find that given the difference between Mr Aujla's written evidence - that his 'Chacha' was a regular visitor - and the evidence advanced orally that he had actually lived in the house, it was evidence that I could place only a little weight upon. Finally Mr Clarke asked me to place no, or little, weight on the photographs since it was not possible for me to say with any degree of certainty that the child shown was in fact Mr Aujla, or how old he was at the time that the picture was taken. Even if I was minded to accept that the child was in fact Mr Aujla, the photographs were not in themselves sufficient to discharge the burden of proof given the difficulties with the rest of the evidence.

28. Mr West acknowledged that there were weaknesses in the way that this case had been prepared. The GP letters were not supported by the GP notes which could have demonstrated that the Appellant's first consultation was in 1995. The evidence of a number of witnesses was only in writing, and untested as it was, he agreed that there was a limit to the weight that it could be given. Mr West further acknowledged that the letter from the plastics manufacturer did not, on its face, appear to comply with the various laws and regulations referred to by Mr Clarke. He however urged me to find that taken in the round, all of this evidence was capable of discharging the burden of proof. The photographs were powerful evidence that the Appellant had been in this country when Mr Aujla was a young child, and given the uncontested evidence that Mr Aujla was born in 1990, this was strongly probative of his presence here in the relevant period.

Findings and Reasons

29. The Appellant's evidence was unsatisfactory in many respects. Confronted by the various discrepancies and weaknesses in his case during Mr Clarke's expert cross examination he repeatedly resorted to blaming others, most often his solicitors: Malik Law Ltd had not acted competently, to the extent that they had included blatant untruths in witness statements that they had prepared; his current solicitors had failed to give him the correct information about the

hearing and had not “guided” him about what evidence he should produce. “Girls” in offices and doctor’s receptionists appeared in the frame for inconsistencies in the documents. The Appellant gave evidence which on its face made little sense. He claimed, for instance, that the letter from the plastics factory had been obtained by a friend because he, as “an illegal”, could not have asked them for a letter, and yet this is exactly what they gave him. I have borne all of that in mind.

30. Mr Clarke was quite right to point to the deficiencies in some of the documents. I attach no weight to the letter from Mr Sharma MP, since I agree that these letters are invariably produced on the basis of what the MP – or more accurately the MP’s staff member – has been told. The letter from the plastics manufacturer is extremely problematic. Apart from the issues identified by Mr Clarke, I would further question why the company would have kept a very specific record of the dates that an undocumented migrant, paid illegally by them in cash, was working there. The reference to him having left due to “family circumstances” makes little sense given that he has no family here. I am minded to accept Mr Clarke’s submission that this letter is unreliable. It may, for instance, have been produced by the Appellant’s friend in a misguided attempt to assist him in his appeal.
31. I am not however prepared to disregard all of the documents before me. The letters from the GP are written on headed notepaper, with the full contact details for the practice. Both letters bear a stamp, and contain information that it is hard to imagine the Appellant being able to fabricate. The fact that the signatures on the letters are different is not, in my view, fatal to my assessment of its veracity: one can well imagine a busy GP practice having letters in the out tray being signed by whoever is dealing with the post that day. The letter clearly states that the Appellant’s first consultation there was in 1995, and that is matter which attracts some weight. Then there are the three letters from Mr Harjit Singh of the Gurdwara in Southall. He has written these over a number of years to confirm that he has personally known the Appellant since 1999. I do not agree with Mr Clarke’s submission that this was markedly inconsistent with the evidence of the Gurdwara’s other Vice President, who placed him as a regular worshipper only since 2008. It is perfectly possible that Harjit Singh knew the Appellant in another capacity – personally, as he says. Furthermore it is also conceivable that in a busy temple different officials come to know different worshippers at different times; we do not know for instance when Mr Sumra even took office. I place some weight on the fact that Harjit Singh, an elected official of this place of worship, has been prepared to write repeatedly in the terms that he has. I have attached some weight, albeit minimal, to the various letters and statements that appear in writing, although untested, in the bundle.
32. As Mr West identified, the most significant evidence is that of Mr Aujla. It was not impressive that Mr Aujla and the Appellant attempted to inflate the evidence by suggesting in their testimony that the Appellant had *lived* in that

house. This appeared to have been a deliberate exaggeration, designed to make it seem that they were closer than they actually were. When the difference between his oral and written evidence was put to him, Mr Aujla reversed his position and agreed that in fact the Appellant had only *stayed* there as a guest. That said, I do believe the core of Mr Aujla's evidence. He gave his testimony in a natural manner with a good level of detail. He explained, for instance, that the room that the Appellant stayed in is the bedroom he lives in today. Importantly, his evidence attracted powerful corroboration in the form of the photographs that were appended to his witness statement, and produced in original form at the hearing. I was left in no doubt that the individual shown, and identified by Mr Aujla as the Appellant, is in fact the Appellant. Although he appears much younger in the pictures, it is quite evidently him: I did not understand Mr Clarke to argue otherwise in his submissions. Mr Clarke did however submit that it was not possible for me to say that the child shown was Mr Aujla. I disagree. Mr Aujla has, he will I hope forgive me for saying so, a distinctive face. In all of the images apart from number 2, where the child in question is much younger, I am confident in accepting that this is indeed Mr Aujla, as he claimed. It looks like him, and he immediately, unhesitatingly and credibly identified it as himself. I find no reason to doubt his evidence on the matter: there is an obvious difference in an individual identifying himself as 9 or 10 year old from, for instance, a photograph of a baby. Mr Aujla was in no doubt that these were pictures of himself, other family members and the Appellant.

33. The First-tier Tribunal has determined, in 2016, that the Appellant has been living continuously in the UK since 2005/2006. The remaining matter for me to decide, in this human rights appeal, is whether as of today's date he has in fact been living here continuously from the 14th July 2001, such as to satisfy the terms of paragraph 276ADE(1)(iii) of the Rules. On the evidence before me I am satisfied that the Appellant has discharged the burden of proof. Although I able to attach only a little weight to the written statements of friends and acquaintances, and to some of the documentary evidence, I have been able to attach significant weight to the credible evidence of Mr Aujla and his photographs. I accept that these depict the Appellant in various locations in the UK along with Mr Aujla at a time when the latter was a young boy of no more than 10-11 years old. Since Mr Aujla was born in 1990 it follows that the photographs are logically probative of the claim that the Appellant was here in 2000-2001. I weigh that in the balance with the GP letter and the evidence from the Vice-President of the Gurdwara. Having done so I find that on a balance of probabilities the Appellant has lived continuously in the UK for at least 20 years. It follows that the appeal must be allowed.

Decisions

34. The decision of the First-tier Tribunal to dismiss the appeal on human rights grounds is set aside.
35. I remake the decision in the appeal by allowing the appeal on human rights grounds.
36. There is no order for anonymity.

A handwritten signature in black ink, consisting of the letters 'CBE' in a cursive, stylized font.

Upper Tribunal Judge Bruce
14th July 2021