



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003990

First-tier Tribunal No: EA/10311/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

26th October 2023

Before

UPPER TRIBUNAL JUDGE LANE

Between

Entry Clearance Officer

and

MUHAMMAD AZEEM

Appellant

Respondent

Representation:

For the Appellant: Mr Tan, Senior Presenting Officer
For the Respondent: Mr Timson

Heard at Manchester Civil Justice Centre on 18 July 2023

DECISION AND REASONS

1. I shall refer to the 'appellant' as the 'respondent' and the 'respondent' as the 'appellant', as they appeared respectively before the First-tier Tribunal.
2. The appellant is a male citizen of Pakistan born on 1 January 1970. The appellant appealed against a decision of the respondent of the 18 December 2020 refusing his application for an EEA family permit based on him being an extended family members of an EEA national, (his brother, Mr Saleem Muhammad, an Italian national) who he claims has been exercising treaty rights in the UK. In the decision promulgated on 21 July 22, the First-tier Tribunal allowed the appeal. The Entry Clearance Officer now appeals, with permission, to the Upper Tribunal.
3. There is one ground of appeal.

1. At [33] the FTTJ finds that the appellant is financially dependent on the sponsor and is therefore entitled to a family permit as an extended family member of an EEA national.
2. It is submitted that this finding is inconsistent with the FTTJ's observation that the appellant has been working in several countries around Europe, nor why he would require the financial support of the sponsor in order to meet his essential requirements.
3. Furthermore the evidence of financial support is sporadic which further demonstrates that the appellant does not require it to meet his essential living requirements.

4. The grant of permission in the First-tier Tribunal is equally brief:

The Judge's reasoning at para 31 on the question of whether the appellant was dependent on his sponsor before entering the European Union are brief, confusing and arguably inadequate to justify allowing the appeal.

5. Mr Tan, for the Entry Clearance Officer, submitted that the decision of the First-tier Tribunal was confused and sketchy. For example, the finding at [34] was brief and devoid of detail to the point of being wholly inadequate ('I have noted the appellants bundle now contains a lot more of the evidence, showing things paid for by the sponsor.'). Some of the reasoning is unintelligible ('I also accept there are money transfers to Pakistan showing the appellant's family is also dependent upon the EEA sponsor being the older brother, who culturally stands in the de facto shoes of their late father' (*sic*) [30]). Mr Timson, for the appellant, submitted that the reasoning of the decision was tolerably clear although he also acknowledged that [30] was 'confused' ('I consider the issue of prior dependency. The appellant was living in his brother's accommodation. Whilst I have no doubt this was the case; at the time of the application, he was not living there as he has been in Europe for some time. I have also not been provided with the title deeds and so cannot take this issue any further.')
6. Whilst I accept that parts the judge's reasoning are just about discernible (eg. that the appellant moved around Europe out of 'desperation in seeking to establish himself') the judge simply does not explain, by reference to the evidence, why he reached those findings. The findings as regards prior dependency [31] are not intelligible, as Mr Tan submits. The Entry Clearance Officer is entitled to know why he/she lost the appeal in the First-tier Tribunal and the judge's decision fails to provide adequate, clear explanation.
7. In the circumstances, I set aside the decision of the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal is set aside. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision.

Listing Directions: return to First-tier Tribunal at Manchester; first available date; not before First-tier Tribunal Judge Maka; 1.5 hours

C. N. Lane
Judge of the Upper Tribunal
Immigration and Asylum Chamber
Dated: 12 August 2023