



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2022-006037
UI-2022-006038
UI-2022-006039
First-tier Tribunal Nos:
EA/02445/2022
EA/02449/2022
EA/02451/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 July 2023

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

Fatima Bibi
Sheraz Ahmed
Ayesha Ahmed
(NO ANONYMITY ORDER MADE)

Appellants

and

Secretary of State for the Home Department

Respondent

Decision made on the papers on 17 July 2023

DECISION AND REASONS

1. By a decision of the First-tier Tribunal promulgated 4.2.23, the three appellants have been granted permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal (Judge Matthews) promulgated 28.6.22 dismissing their linked appeals against the respondent's refusal of their applications for EEA Family Permits.
2. The grounds of appeal argue that the First-tier Tribunal erred in law in (i) proceeding in circumstances where the Appellants were not served with the Respondent's bundle that was before the First-tier Tribunal; and (ii) failing to properly apply the case of Reyes v Secretary of State for the Home Department (EEA Regs: dependency) [2013] UKUT 314, in particular by considering why the First Appellant's husband was not providing financial support but the reasons for financial dependency are irrelevant.
3. In granting permission, the First-tier Tribunal found the first ground not arguable but stated:

"The second ground of appeal is arguable, whilst it is arguably permissible to question the wider family circumstances in the context of a more direct

family member working in the United Kingdom 2 and who was previously supporting the Appellants, it is arguable that given dependency by choice is permissible, it is neither expected nor relevant as to whether the First Appellant's husband was also financially supporting the Appellant nor whether he could in fact do so. The Judge was however entitled to give less weight to an unsigned statement and there is an ongoing concern in these appeals as to who is preparing the documents and formally signing, for example, the application for permission to appeal. The document is written as if from the First Appellant, but the appeal form refers to a 'Shahid Imran' as the person signing the statement of truth, not identified as a solicitor but also not the name of any of the Appellants, the Sponsor, nor the First Appellant's husband. The signature does not assist in identifying the person who signed the form and it is notable that there are at least two different signatures identified as 'the Appellant' across different forms that have been submitted."

4. The First-tier Tribunal went on to issue directions, as set out in the grant of permission.

5. By the respondent's Rule 24 responses, it is made clear that the respondent does not oppose the appellant's appeal:

"The Respondent agrees with the grant of permission on the second ground of appeal. The Judge accepts that there are remittance receipts that name the sponsor and the appellant which have occurred monthly since at least 2020 [16]. The Judge acknowledges that there is evidence indicative of the expenditure of the appellants as a family group [18]. Despite these findings the Judge makes no findings of fact as to whether the appellant's are dependent on the sponsor to meet their essential needs. For those reasons it is agreed that the Judge has materially erred in law when assessing dependency. The Respondent suggests that the appeal should be remitted to the First-Tier Tribunal for a de-novo hearing."

6. I agree with the Rule 24 response that there is an error of law in the decision of the First-tier Tribunal.

7. In the circumstances, consistent with Rule 34, I am satisfied that on the facts of this case there is no necessity for this matter to proceed to an error of law hearing and the appeal to the Upper Tribunal can be determined on the papers by allowing the appeal of each appellant.

8. For the reasons outlined in the grounds and the Rule 24 reply, I am satisfied that the decision of the First-tier Tribunal involved the making of an error of law sufficient to require the decision to be set aside and remade.

9. Given the nature of the error of law, I am satisfied that this is one of those cases that, consistent with the Presidential Direction, should be remitted to the First-tier Tribunal to be remade afresh (de novo) with no findings of fact preserved.

Notice of Decision

The appeal of each appellant to the Upper Tribunal is allowed.

The decision of the First-tier Tribunal is set aside for error of law.

The remaking of the decision in the linked appeals is remitted to the First-tier Tribunal sitting in Newport or other hearing centre as deemed appropriate.

I make no order for costs.

DMW Pickup

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber

17 July 2023