



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/08651/2013  
IA/08658/2013  
IA/08660/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 5<sup>th</sup> March 2014

Determination Promulgated  
On 11<sup>th</sup> March 2014

Before

UPPER TRIBUNAL JUDGE COKER

Between

ABID SHABIR  
MARYAM ABID  
HADIYAH ABID

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms Niama of Berkshire Law Chamber  
For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The first appellant applied for leave to remain as a Tier 1 migrant, the two other appellants being his dependants.
2. The appellants submitted their application on 2<sup>nd</sup> April 2011 which was refused on 14<sup>th</sup> September 2011 with no right of appeal (they still had extant leave to remain in the UK). Further submissions were made which the respondent refused to entertain on 24<sup>th</sup> October 2011. Further evidence was submitted on 21<sup>st</sup>

February 2012 which the respondent again refused to entertain. Following judicial review proceedings and a consent order those further submissions, additional submissions dated 14<sup>th</sup> October 2012 and evidence were reconsidered by the respondent and on 6<sup>th</sup> March 2013 the respondent refused the application which this time had a right of appeal.

3. The application was refused under paragraph 322(1A) and 245(c) on the grounds that the bank deposit statements submitted by him were false and that the points claimed for previous earnings were insufficient.
4. Permission to appeal was granted on the basis that it was arguable that the First-tier Tribunal judge appeared to have found that the bank statements were false at least in part because there was strong evidence to suggest corruption within banks in Pakistan without evidence to support such a finding and that the judge was arguably wrong in finding in favour of the respondent when the appellant had submitted a bank letter and email to confirm the authenticity of the account information.
5. The respondent's case was that the current deposit account statement submitted with the application in support of overseas earnings was not genuine and thus the dividends from that account had been discounted. The respondent relied on the response to enquiries made by her to the bank which confirmed that the documents had not been issued by them. The appellant produced further documentation from the bank dated 11<sup>th</sup> October 2011 which the respondent, after enquiries, with the bank, concluded was genuine. The respondent stated that the bank had confirmed that the deposit account had been opened in October 2011 and that therefore the information supplied previously purporting to show that the account was in operation between 10 April 2011 and 28 June 2011 was not genuine.
6. The correspondence trail as regards the disputed bank documents is as follows:
  - (a) 28.06.11 letter from the Bank of Azad Jammu and Kashmir (Tatta Pani Branch) (hereafter "AJK - TPBranch") addressed To Whom It May Concern
  - (b) 11.10.11 letter from AJK-RPBranch addressed To Whom It May Concern
  - (c) 01/04/11 - 28/06/11 Current Deposit Statement of AJK-TPBranch
  - (d) 01/07/11- 30-09-11 Current deposit Statement of AJK-TPBranch
  - (e) 01/07/11 -11/10/11 Current Deposit Statement of AJK-TPBranch
  - (f) 05.08.11 DVR verifying (c) above false
  - (g) 31.10.12 letter from AJK Divisional Head of Operations confirming (c) above false; (e) above genuine; (e) account operative since 4 October 2011 at Tatapani branch.
  - (h) 05.12.12 DVR verifying (e) genuine; account did not exist until October 2011; draws the conclusion again that (c) above false

- (i) 03.07.13 Letter addressed To Whom It May Concern from Manager AJK-TPBranch stating that appellant's account opened manually in 2009
- (j) 12.07.13 Letter addressed To Whom It May Concern from AJK Head Office Divisional Manager Operations
- (k) 06.08.13 (and chasing emails) email by respondent to AJK Head Office requesting verification of letters from AJK-TPBranch dated 03.07.13 and 12.07.13 addressed to appellant
- (l) 17.09.13(?) Email from AJK Head Office to respondent confirming letters dated 03.07.13 and 12.07.13 is fake; and that they are investigating further
- (m) 17.09.13 DVR stating information as in (l) above.
- (n) 02/11/13 email from appellant to Divisional Head Operations AJK bank
- (o) 06/11/13 reply email from Divisional Head Operations AJK bank to appellant
- (p) 11.11.13 Letter from the State Bank of Pakistan to the appellant

7. The letter purporting to come from the Manager of the TJK-TPBranch dated 3<sup>rd</sup> July 2013 states

...Please note Our bank branch was opened in 2009 and since then it has been running its operations manually. The inquiry by the Head Office has been done by using out online system and as this account was opened manually it would not exist on our online system...His account transactions from 1<sup>st</sup> April 2011 to 28<sup>th</sup> June 2011 are genuine according to our manual customer record system

8. The letter purporting to come from the Divisional Manager Operations Head Office dated 12 July 2013 states

....We write this letter in relation to the [appellant's account] and further to the letter dated 31 October written by Mr Ghulam Hussain (Divisional Head Operations).

It is hereby certified that the above mentioned account enquiry was done using our online banking system. The relevant bank branch [TKP-TPBranch] was managing the account manually. Therefore the account record of the [appellant] before October 2011 was unavailable to Mr Ghulam Hussain at the time of the enquiry, as one would have to physically go and or contact the specific branch to retrieve the manual records in order to obtain the relevant information required.

Therefore after visiting the specific bank branch and physically checking the manual record of [the appellant's] account, it is hereby confirmed that [the appellant] opened his account...on 01 April 2011 at Tatta Pani branch...and has since been regularly maintaining his account since then.

This account is a genuine bank account and the statement issued by the bank dated from 01-04-2011 to 28-06-2011 showing all the bank transactions on the statement do genuinely exist in our manually kept records in the specific bank branch in Tatta Pani...

Therefore the letter dated 31 October 2012 issued by Mr Ghulam Hussain (Divisional Head Operations) was an error....and should be disregarded

9. The bank statement for the period 01.04.2011 to 20.06.2011 shows a first transaction on 01.04.11 as "By TR (CGS) 1500". On an amended copy of what looks like a computer generated statement handwritten figures have been written in; it appears this is because the photocopy of the statement in the various bundles is not legible for those figures. These were the only manually transcribed figures in the document. I drew the attention of the appellant's representative to the statement as appearing to be computer generated rather than a manual record; she responded that her instructions were that the account was manually run until October 2011.
10. The bank statement for the period 01.07.2011 to 30.09.2011 appears to be computer generated and has no manual additions. The address on this statement is a shortened form of that which appears on the statement for the period 01.04.2011 to 20.06.2011. The bank statement for the period 01.07.2011 to 11.10.2011 is in the same general format although the address includes what could be a street or road name.
11. The email at (o) above asserts that the letters dated 3 July 2013 and 12 July 2013 were issued according to the bank's manual records. Those letters assert that the manual records were not available to online enquiries and that Mr Ghulam Hussain (the Divisional Head Operations) would not have been able to verify the existence of the account without physically going to or contacting the specific bank to retrieve the information. The letter from Mr Hussain dated 31 October 2012 states

It is informed that on receipt of your previous enquiry dated August 11, 2011 the above named person was not maintaining his account with our Tatta Pani Branch, and hence we reported it as "Fake Statement".

However on receipt of your latest enquiry dated August 13, 2012, we reported that the [appellant] has been maintaining his [account], being operative since October 04, 2011 at our Tatapani branch....

12. The appellant also relies upon a letter he received from the State Bank of Pakistan dated 11-11-2013 in response to his enquiry dated 21/10/2013 which states

I have made investigations with Tatta Pani branch...It was confirmed by the relevant branch that your above mentioned Account was opened on 1-04-2011....

I have further confirmed from BAJK Head Office Muzaffarabad and they confirmed the account opening date is 4-10-2011. After further investigations they confirmed that the actual account opening date is 01April 2011, but that record is not available in their computerized data.

So at our end we can confirm that the actual date of account opening is 1-04-2011.

13. The appellant submits, in essence, that the evidence produced by him was sufficiently cogent to dispel the previously notified statements that he had produced forged documents and that the failure of the respondent to make

further enquiries in some way ameliorated the weight to be placed upon the initial evidence supplied. Dealing with the second issue first this is not a situation where the respondent is best placed to obtain the evidence required. The burden is upon the appellant to prove his case. The documents initially produced had been declared forgeries by the Bank. Although the appellant subsequently produced further documentation purporting to show this not to be the case, that subsequent evidence was not from the same people who had produced the initial assessment; there was no explanation why different people had been approached; the bank in question (despite having notified the respondent they were investigating further and despite the email to the appellant stating they had investigated) did not contact the respondent direct again. The bank statements on their face do not look like manually produced records.

14. Although the appellant states that it is public knowledge that the State Bank of Pakistan regulates the banks in Pakistan that was not in direct evidence. Even if the State Bank regulates some or even all of the banks in Pakistan that is very different to having the role of investigating and regulating individual accounts held at another bank.
15. Complaint was made that the judge had placed too great a reliance on an assertion that there is a high level of corruption in Pakistan in Banks. Although the judge makes reference to levels of corruption he does not conclude that the documents produced by the appellant are false *because* of that; when read properly he is merely stating that there are high levels of corruption, a matter that is in the public domain.
16. Taking all of the evidence before the judge it was open to the judge to reach the conclusions and make the findings he did, doing the best he could with the evidence before him and bearing in mind the burden and standard of proof. It was not irrational for the judge to find that the later evidence did not establish that the appellant had held the account as he claimed for the period claimed.
17. In so far as Article 8 is concerned, the findings of the judge as regards the proportionality of the decision flow from his findings and it was plainly open to him to reach the decision he did.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision is set aside to be remade.

I do not set aside the decision

Date 7<sup>th</sup> March 2014

Judge of the Upper Tribunal Coker