



IAC-AH-DN-V1

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

Appeal Number: VA/15298/2013

**THE IMMIGRATION ACTS**

**Heard at Birmingham Sheldon Court**

**Determination**

**On 2<sup>nd</sup> October 2014**

**Promulgated**

**On 28<sup>th</sup> October 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**MR HARJIT SINGH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER, NEW DELHI**

Respondent

**Representation:**

For the Appellant: Mr H Samra (Solicitor)

For the Respondent: Mr D Mills (HOPO)

**DETERMINATION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge Phull, promulgated on 23<sup>rd</sup> June 2014, following a hearing at Birmingham Sheldon Court on 4<sup>th</sup> June 2014. In the determination, the judge allowed the appeal of Harjit Singh. The Respondent Secretary of State

subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

2. The Appellant is a male, a citizen of India, who was born on 2<sup>nd</sup> October 1982. He appeals against the decision of the Respondent Entry Clearance Officer, under paragraph 46A and 41 of HC 395, which refused his application for a visit visa in order to make a family visit to come to the UK, having been sponsored by Mr Arminster Singh, a close relative.

### **The Appellant's Claim**

3. The circumstances of the Appellant's claim were set out at paragraph 4 by the determination, which explained his family situation back in India, and how he had come to the UK in 2010 in order to visit and to attend a wedding and a birthday party, when he returned within the period of the visa granted.

### **The Judge's Findings**

4. The judge had regard to the fact that the Appellant's previous application, after his visit in 2010, had been refused in 2012, and that Judge Pirotta, had heard an appeal in the First-tier Tribunal on 29<sup>th</sup> November 2012, when she had upheld the refusal on the basis that there had been a ration card, which was issued in 2001, and which gave the Appellant an age of 17 years, whereas he was born in 1982, and would have been 19 years of age (see paragraph 13 of the determination).
5. Judge Phull referred to the fact that the Appellant had now filed evidence with the appeal, which was not before Judge Pirotta, and which dealt with the issue of the ration card, and the crop receipts. The HOPO raised paragraph 320(7A) and argued that the ration card was not genuine. The judge referred to the case law in the form of **AA (Nigeria) [2010] EWCA Civ 773** (see paragraph 15 of the determination) and held that there had to be evidence of dishonesty on the part of the Appellant, which was absent here. This is because the Appellant was able to refer to the translation which refers to a date on the card, which was not stated in the actual card itself, so that the translation could not be relied upon (see paragraph 16). The appeal was allowed.

### **Grounds of Application**

6. The grounds of application state that the judge erred in finding that paragraph 320(7A) had not been substantiated.
7. On 9<sup>th</sup> July 2014, permission to appeal was granted on the basis that the principles of **Devasaleen** should have been followed because the previous judge had dismissed the appeal.

## **Submissions**

8. At the hearing before me, Mr Samra referred to his Rule 24 response dated 29<sup>th</sup> July 2014, which states that the Presenting Officer was not denied the opportunity of presenting a document to deal with the question of dishonesty. This is because the relevant document, the ration card, was contained in the Respondent's bundle, and was before the parties involved, and at no point did the Entry Clearance Officer or the Entry Clearance Manager raise the issue of the application of paragraph 320(7A).
9. Mr Mills, appearing on behalf of the Respondent, stated that he would have to concede that there was no error of law here. This is because Mr Samra had only been show him the ration card as an original document. It was clear from this that there was no date on it at all. It was a translation which had wrongly interposed a date on the card. This had led Judge Pirotta to previously conclude that the date of birth of the children did not correspond with the date on the issue of the ration card. However, there was never a date on the ration card itself. Therefore, he, Mr Mills, would have to accept that the ration card was a genuine document. He would have to accept that paragraph 320(7A) had not been substantiated. He would have to accept that the judge was correct in allowing the appeal on this occasion.

## **No Error of Law**

10. I am satisfied that the making of the decision by Judge Phull did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision. It is clear that the reliance on paragraph 320(7A) was misconceived. It had not been raised by the Entry Clearance Officer and it had not been raised by the Entry Clearance Manager. The ration card was in the Respondent's bundle. The Respondent had not been denied the opportunity of raising the issue. In any event, it had now been explained away. Mr Mills wisely conceded that he could not place any reliance on the allegation that there had been an element of fraud here.

## **Decision**

11. There is no material error of law in the original judge's decision. The determination shall stand.
12. No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

28<sup>th</sup> October 2014