



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

Appeal Number: OA/04156/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 15<sup>th</sup> May 2015**

**Determination Promulgated  
On 29<sup>th</sup> May 2015**

**Before**

**UPPER TRIBUNAL JUDGE RENTON**

**Between**

**GHANIA NASIR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER - ISLAMABAD**

Respondent

**Representation:**

For the Appellant: Mr A Dafar, Counsel instructed by Eden Solicitors

For the Respondent: Mr N Bramble, Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. The Appellant is a female citizen of Pakistan born on 24<sup>th</sup> April 1990. She applied for entry clearance to the UK as the spouse of the Sponsor, her husband Abdul Nasir, a British citizen. That application was refused firstly on 27<sup>th</sup> February 2014 and then again on review by an Entry Clearance Manager on 13<sup>th</sup> September 2014. There is a further Notice of Refusal dated the 1<sup>st</sup> October 2014. The Appellant appealed, and her

appeal was heard by Judge of the First-tier Tribunal E B Grant (the Judge) sitting at Hatton Cross on 14<sup>th</sup> January 2015. She decided to dismiss the appeal for the reasons given in her Decision dated 27<sup>th</sup> January 2015. The Appellant sought leave to appeal that Decision, and on 10<sup>th</sup> April 2015 such permission was granted.

### **Error of Law**

2. I must first decide if the Decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Judge dismissed the appeal because she was not satisfied that the Appellant satisfied the financial requirements of Appendix FM of the Statement of Changes in Immigration Rules HC 395. In particular, the Judge was not satisfied that the Appellant satisfied the requirements of paragraph E-ECP.3.3.(b) of Appendix FM because the Appellant had not submitted personal bank statements corresponding in time to payslips submitted over a six month period showing that the claimed salary of the Sponsor had been paid into his bank account and therefore reflected his actual income and employment.
4. At the hearing, Mr Dafar argued that the Judge had erred in law in coming to that conclusion. At paragraph 11 of the Decision, the Judge referred to three payslips from Sovereign Cars dated from June to August 2013. However, the Appellant had submitted a total of six payslips as referred to in the Notice of Refusal dated 1<sup>st</sup> October 2014. The Judge had therefore erred in law by not considering all of the evidence. This was a material error of law because if the Judge had considered all the wage slips it would have satisfied him that the Appellant satisfied the financial requirements of Appendix FM.
5. In response, Mr Bramble referred to the Rule 24 response and argued that the Judge had made no such error of law. It was apparent from what the Judge wrote at paragraph 12 of the Decision that he had dismissed the appeal because the payslips which he had considered did not coincide with receipts into the Sponsor's bank account and therefore it had not been shown that the Appellant had the required income.
6. I find an error of law in the Decision of the Judge which I set aside. Notwithstanding what the Judge wrote at paragraph 12 of the Decision, it is apparent from what the Judge wrote in the preceding paragraph that he did not consider all of the payslips from Sovereign Cars representing the Sponsor's monthly earnings. A failure to take into account all the relevant evidence amounts to an error of law.

### **Remade Decision**

7. I proceeded to remake the Decision of the Judge using the evidence which was before him. The representatives did not wish to make any further submissions.
8. There is a letter from Sovereign Cars dated 19<sup>th</sup> December 2013 stating that the Sponsor Abdul Nasir had been employed by them since 15<sup>th</sup> May 2013 as an Office

Manager earning £22,320 gross per annum. This employment and level of income is confirmed by a series of payslips produced by the Appellant, and also corresponding receipts of salary shown in the statements of the sponsor's bank account with Barclays Bank. From this evidence I am satisfied that the Appellant can meet the financial requirements of Appendix FM and therefore I allow the appeal.

**Notice of Decision**

The making of the Decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the Decision.

I remake the Decision in the appeal by allowing it.

**Anonymity**

The First-tier Tribunal did not make an anonymity order and I find no reason to do so.

Signed

Date

Upper Tribunal Judge Renton

**TO THE RESPONDENT**  
**FEE AWARD**

In the light of my decision to remake the Decision in the appeal by allowing it, I have considered whether to make a fee award. I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011). I make no fee award because the evidence upon which I have allowed the appeal was not before the Entry Clearance Officer who first considered the application.

Signed

Date

Upper Tribunal Judge Renton