



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/06151/2014

THE IMMIGRATION ACTS

Heard at Manchester Piccadilly
On 15 July 2015

Decision Promulgated
On 23 July 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE BIRRELL

Between

ADNAN UR REHMAN
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K P Gill of Gill Law Chambers

For the Respondent: Ms C Johnson Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. The Secretary of State for the Home Department brings this appeal but in order to avoid confusion the parties are referred to as they were in the First-tier Tribunal. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judges

Morris and Chambers promulgated on 12 February 2015 which allowed the Appellant's appeal under the Immigration Rules.

Background

3. The Appellant was born on 13 June 1984 and is a national of Pakistan.
4. On 7 April 2014 the Appellant applied for entry clearance to the United Kingdom under Appendix FM as the fiancé of Ms Sara Jabeen a British Citizen.
5. On 24 April 2014 the Secretary of State refused the Appellant's application. The refusal letter gave only one reason that the Appellant did not meet the relationship requirements of Appendix FM in that there was insufficient evidence of a genuine and subsisting relationship or that they intended to live together permanently (E-ECP 2.6 and 2.10)

The Judges Decision

6. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Chambers and Morris ("the Judges") allowed the appeal against the Respondent's decision on the basis of the documentary evidence and the oral evidence of Ms Jabeen. The Judges found :
 - (a) The parties were in a genuine and subsisting relationship.
 - (b) There was an arranged marriage in that it was proposed to the sponsor who visited Pakistan in April 2011 to meet her proposed husband for the first time and they agreed to marry.
 - (c) Cultural and religious reasons explained why they were not photographed next to each other. Cultural and religious reasons meant that their contact, including telephone contact, would be limited until their marriage had been performed and registered: their relationship would only begin when they married.
 - (d) They accepted that the sponsor had not visited Pakistan since 2011 because she was completing her degree and working.
 - (e) Their intention to marry was reflected in their booking of Chadderton Town Hall for the marriage ceremony.
7. Grounds of appeal were lodged arguing that the Judges had failed to give adequate reasons for their findings at paragraph 16 that the parties were in a genuine and subsisting relationship and on 9 April 2015 First-tier Tribunal Judge Parkes gave permission to appeal.
8. At the hearing I heard submissions from Ms Johnson on behalf of the Respondent that :
 - (a) She relied on the grounds of appeal.
 - (b) The Judges found that there was limited contact between the parties and the relationship only began when they married therefore their relationship could not be genuine and subsisting.
 - (c) There was a lack of visits.

9. On behalf of the Respondent Mr Gill submitted that :
- (a) The sponsor gave evidence and confirmed that their relationship was genuine and subsisting and the Judges found her to be a credible witness.
 - (b) The Judges made their decision in the context of this being a fiancé application.
 - (c) The basis of their assessment was whether they intended to go ahead with the marriage. They recognised that the quality of the relationship would be different after they married.
 - (d) She gave explanations for the lack of visits in that she was studying and working to meet the financial requirements.
 - (e) The lack of contact did not mean this was not a genuine and subsisting relationship.

Finding on Material Error

10. Having heard those submissions I reached the conclusion that the Tribunal made no errors of law.
11. It was said in Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC) there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge.
12. The Judges in this case had the benefit of hearing evidence from the sponsor in this case Ms Jabeen and on the basis of that and the documentary evidence reached conclusions as to whether the relationship of Ms Jabeen and her fiancé was genuine and subsisting and whether they intended to proceed with their marriage.
13. They made clear that they found her to be a credible witness as to this central issue that this was a genuine and subsisting engagement leading to marriage within a particular cultural environment. I am satisfied that they were entitled to do this given that the word 'relationship' bears more than one meaning and thus while it may mean a romantic or sexual involvement it may also be a connection via kinship or marriage. The Judges accepted that their relationship as a man and woman would begin after marriage but that did not preclude them being in a genuine and subsisting relationship before marriage.
14. The Judges set out at paragraph 16(i)-(vi) in detail why they accepted that this was a genuine and subsisting marriage that would lead to marriage. They heard and found credible the reasons for the limited contact, the photographic evidence being limited and the lack of visits. I am satisfied that as Mr Gill submitted they were entitled to accept that religiously and culturally the different nature of that relationship before and after marriage. These were findings open to them.
15. I was therefore satisfied that the determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

CONCLUSION

16. I therefore found that no errors of law have been established and that the Judge's determination should stand.

DECISION

17. The appeal is dismissed.

Signed

Date 22.7.2015

Deputy Upper Tribunal Judge Birrell