



IAC-AH-LEM-V1

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

Appeal Number: IA/03411/2015

THE IMMIGRATION ACTS

**Heard at City Centre Tower, Birmingham
On 10th March 2016**

**Decision & Reasons
Promulgated
On 15th April 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**IMRAN RASOOL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Eaton, Counsel instructed by Ison Harrison Solicitors
For the Respondent: Mr D Mills, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a male citizen of Pakistan born on 30th July 1970. The Appellant married his wife, Rabia Waraich, a German citizen and therefore an EEA national, when they were resident in Germany in 2002. They both

moved to live in the UK from 29th November 2008, and on 20th October 2009 the Appellant obtained a residence card valid for a period of five years. On 14th October 2014 the Appellant applied for a permanent residence card under the provisions of Regulation 15 of the Immigration (European Economic Area) Regulations 2006 (the Regulations). That application was refused on 12th January 2015 for the reasons set out in the Respondent's letter of that date. The Appellant appealed, and his appeal was heard by First-tier Tribunal Judge Boardman (the Judge) sitting at Taylor House on 3rd August 2015. The Judge allowed the appeal for the reasons set out in his Decision dated 5th August 2015. The Respondent sought leave to appeal that decision, and on 7th January 2016 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 Appellant made his application on the basis that his wife was a self-sufficient person for the purposes of Regulation 6(1)(d) of the Regulations. The application for a permanent residence card was refused on the basis that the Appellant's wife was at least partly dependent financially on the Appellant and therefore did not qualify as a self-sufficient person under Regulation 4(4) of the Regulations. The Judge allowed the appeal because following the decision in **Singh [2015] EUECJ C-218/14 (16th July 2015)** a self-sufficient person for the purpose of Regulation 6(1)(d) of the Regulations could be wholly financially dependent on the earnings of another, in this case her spouse, the Appellant.
4. In the grounds of application, it was argued that the Judge had erred in law in this respect. Following the decision in **AG and others (EEA job seeker self-sufficient person - proof) Germany [2007] UKAIT 00075**, under Regulation 4(4) of the Regulations, it was decided that "the resources of a family member cannot be aggregated with those of the EEA national where those resources are derived from past employment of that family member".
5. At the hearing, Mr Mills said that having considered the Rule 24 response of the Appellant, he accepted that there was no error of law in the decision of the Judge. It was accepted that the Appellant and his wife had never been reliant upon public funds in the UK, and held comprehensive health insurance. The circumstances of the Appellant and his wife came squarely within those considered in **Singh and others** which post-dated the decision in **AG and others** and therefore was to be preferred. Mr Mills accepted that the Appellant qualified for a permanent residence card as he satisfied all the requirements of the appropriate Regulations.
6. Having heard from Mr Mills, I indicated that I did not need to hear from Mr Eaton. I find that there was no error in law of the decision of the Judge for

the reasons explained by Mr Mills, and therefore I do not set aside the decision of the Judge.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside that decision.

The appeal to the Upper Tribunal is dismissed.

Anonymity

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

Signed

Date

Deputy Upper Tribunal Judge Renton