



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/01887/2015

**THE IMMIGRATION ACTS**

Heard at Glasgow  
on 3 May 2017

Determination issued  
on 4 May 2017

Before

**UPPER TRIBUNAL JUDGE MACLEMAN**

Between

**NAZISH**

Appellant

and

**ENTRY CLEARANCE OFFICER, Islamabad**

Respondent

For the Appellant: Mr C McGinley, of Gray & Co, Solicitors  
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**


1. The appellant is a citizen of Pakistan, born on 5 August 1990. She married Amir Qamar on 11 June 2012. He is also a citizen of Pakistan, with indefinite leave to remain in the UK. She and the appellant have a daughter, born since these proceedings began, on 1 February 2016.
2. In a decision dated 29 June 2015, the ECO refused the appellant's application for entry clearance as a partner. The ECO gave these reasons:
  - (i) inadequate evidence of a genuine and subsisting relationship;
  - (ii) absence or prescribed evidence under appendix FM-SE of the immigration rules – bank statements not corresponding with salary from the sponsor's two claimed employments; and

(iii) no disproportionate interference with family and private life under article 8 of the ECHR.

3. First-tier Tribunal Judge D C Clapham SSC dismissed the appellant's appeal by decision promulgated on 9 September 2016.
4. The judge found in favour of the appellant on the genuineness of her relationship with the sponsor, and that is no longer in issue.
5. However, the judge explained at ¶17 - 18 that the financial evidence did not comply with the requirements of the rules. While the sponsor appeared to earn more than the minimum income, and total credits on his bank account exceeded that amount, he had two jobs. He was paid in cash for both and not directly into his bank account. Deposits did not correspond with his payslips. He said at the hearing that some credits represented repayment to him of a loan he had made to a third party (not either of his employers). The judge found that he could not allow the appeal under the rules.
6. The case was dismissed also under article 8, on the view that the outcome was not disproportionate, particularly as there was the option of a fresh application, with apparent prospects of success.
7. The first ground of appeal to the UT submits that the net amounts deposited by the sponsor were more than required to meet the minimum income requirement, and the evidence should have been held to be satisfactory, particularly as there was also produced a letter from HMRC to confirm income and tax paid thereon.
8. The second ground disputes the outcome under article 8.
9. Permission was refused by the FtT, but granted by the UT on the view that the judge had not referred to the evidence from HMRC showing more than required income, and so arguably failed to refer to all the relevant evidence.
10. The grant of permission does not refer to ground 2. Mr McGinley, realistically, accepted that the appeal could not succeed on that basis.
11. Mr McGinley said that while credits could not be itemised, and it was accepted that not all earnings were deposited, it was plain from letters from employers, wage slips, and the letter from HMRC that the sponsor's earnings reached the minimum income requirement, and an outcome adverse to the appellant bordered on the perverse.
12. The HMRC document is, unfortunately for the appellant and the sponsor, not among the prescribed documentation for purposes of the relevant rules. Mr Matthews observed that forms P60 are accepted, but that the appellant had not produced such forms from either employment. He pointed out that the appellant accepted that he did not deposit all his earnings paid in cash, and had not attempted to relate the credits into his account to either of his employments or to loan repayments. He

submitted that although the outcome might appear harsh, it could not be otherwise in terms of the rules.

13. I reserved my decision.
14. As I indicated at the hearing, I have some sympathy for the appellant and the sponsor; but I also indicated that it was difficult to see any legal basis on which the outcome of the case might be reversed. On full consideration, I am unable to reach any such resolution.
15. The scheme set up under appendices FM and FM-SE is highly prescriptive; deliberately so. Strictly specified evidence must be produced with applications, otherwise they fail. With few if any exceptions, matters cannot be put right by producing further evidence in course of an appeal, or by showing that the substance of rules such as the minimum income requirement has been met, although the letter of documentary proof has not been complied with.
16. The appellant is unable to refer to any provisions in the rules by which her appeal might properly have been allowed.
17. The only remedy for her and the sponsor is to begin again under the rules (it is to be hoped that the necessary evidence has been assembled).
18. The determination of the First-tier Tribunal shall stand.
19. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

3 May 2017  
Upper Tribunal Judge Macleman