



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

Appeal Number: OA/03795/2015
& OA/03796/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 27 September 2017**

**Decision & Reasons
Promulgated
On 5 October 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

**MRS HUSNA ARA BEGUM
MASTER MD REJAUL ISLAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Karim, Counsel.

For the Respondent: Mr C Bramble, Home Office Presenting Officer.

DECISION AND REASONS

1. The first Appellant is a Bangladeshi woman who applied for entry clearance to the United Kingdom to settle with her husband, Mohammed Islam, whom she had married on 24 June 1992 and with whom she had four children aged at that time 21, 20, 18 and 15. The application was

made together with that of a younger child born on 9 September 1999. The Respondent refused their applications because allegedly false bank statements had been submitted with the previous application and the Sponsor had claimed a suspiciously large pay rise in order to reach the financial requirements. There were no exceptional circumstances.

2. The Appellants appealed and following a hearing, and in a decision promulgated on 6 January 2017, Judge of the First-tier Tribunal M R Oliver dismissed the appeals under both the Immigration Rules and on human rights grounds.
3. The Appellants sought permission to appeal which was considered by Judge of the First-tier Tribunal Lambert who, in a decision dated 25 July 2017 granted it. The Judge's reasons for so doing are:-

- "1. The Appellants seek permission to appeal, in time, against a decision of the First-tier Tribunal (Judge Oliver) who, in a decision promulgated on 6/1/17 dismissed the Appellant's (sic) appeal against the Secretary of State decision to refuse entry clearance as a spouse and dependant.
2. The judge appears at paragraph 9 to have found the particular allegation of false documents relied on in the refusal (for a 2011 application) not to have been made out, but went on to find that the Appellants had made false representations in a 2007 application. He concluded they did not meet the suitability requirements of Appendix FM.
3. The grounds argue that the suitability requirements had not been put in issue by the respondent; however the judge at paragraph 13 pointed to the fact that *'the facts [relating to suitability] were all disclosed in the documents provided by the respondent and in the knowledge of the sponsor and the Appellants who were required to meet the requirements of all the rules.'* This analysis by the judge contains no arguable error of law. The refusal had raised an issue of false documents that in principle could have brought into play suitability under paragraph S-EC 2.2.
4. The remaining grounds however may be arguable in that the wording of paragraph S-EC 2.2 refers in terms to false information...submitted in relation to the application; the application about which the judge made findings of false information was not the current application, but the one made in 2007.
5. There is therefore an arguable error of law disclosed by the application."

4. Thus, the appeal came before me today.

5. At the outset Mr Bramble conceded that ground 2 in relation to the proper construction of the Immigration Rules was made out and that the appeal should be remitted to the First-tier Tribunal for a de novo hearing. Mr Karim, given the concession, submitted likewise. It is an analysis that I share.

Decision

6. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice 7. (b), before any Judge aside from Judge M R Oliver.

No anonymity direction is made.

Signed

Date 4 October 2017.

Deputy Upper Tribunal Judge Appleyard