



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

**Appeal: EA/01963/2018**

THE IMMIGRATION ACTS

Heard at Glasgow  
on 22 March 2019

Decision & Reasons Promulgated  
**On 10 April 2019**

Before

**Mr C M G OCKELTON, VICE PRESIDENT  
& UT JUDGE MACLEMAN**

Between

**BILAL ZAMAN**

Appellants

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mr M Shoaib, of Shoaib Associates

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. By letter dated 6 February 2018, the respondent declined to grant the appellant a permanent residence card. The crux of that decision is at page 2: lack of evidence that his former spouse had been exercising treaty rights between various specified dates, leaving significant gaps in the qualifying period of 5 years.
2. FtT Judge Agnew dismissed the appellant's appeal by a decision promulgated on 22 June 2018.

3. The grounds of appeal to the UT focus on the regulations not requiring a sponsor to be in full time employment.
4. The grant of permission is on the view that the judge might have erred by failing to “place weight” on periods when the sponsor was a jobseeker, in wrongly requiring 5 years in employment, and in wrongly assuming that at one point the sponsor became voluntarily unemployed.
5. Mr Shoaib took up these three themes in his submissions.
6. The decision is not entirely clear and consistent on any of those themes, and periods as a jobseeker may qualify along with periods in employment. That is all beside the point. Those are matters mentioned in passing. The decision *is* clear on the issue of the significant time gaps which are left even on the most benevolent view of the evidence.
7. Although this has been the one decisive issue from the outset, Mr Shoaib has provided no chronology and summary of the evidence for the appellant, referenced to the requirements of the regulations, to show that he had even a *prima facie* case.
8. We gave Mr Shoaib the opportunity to assemble such a case in course of submissions, although the time to do so was long before then. He was unable to do so.
9. One point did become clearer. In terms of regulation 6 (7), the sponsor could not retain the required status for longer than 91 days “without providing compelling evidence of continuing to seek employment and having a genuine chance of being engaged”. By dates on which Mr Shoaib relied, the period to be explained amounted to 116 days. There was no evidence in terms of the regulation. By that token alone, the appeal was bound to fail.
10. We also accept the submission of Mrs O’Brien that no error was suggested in the FtT’s findings at [14, 17 and 19] that there were gaps in the history which there was no evidence to fill.
11. No error by the FtT has been disclosed of such a nature as might require its decision to be set aside. On findings in which no error has been shown, the appeal had to be dismissed. On further reference to the evidence before the UT, the appellant’s case became worse, not better.
12. The decision of the First-tier Tribunal shall stand.
13. No anonymity direction has been requested or made.



8 April 2019  
UT Judge Macleman