



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/01676/2020

THE IMMIGRATION ACTS

Heard at Field House
On 15 September 2021

Decision & Reasons Promulgated
On 5 November 2021

Before

UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

HUMA ADNAN
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the appellant: Mr S Karim, Counsel, instructed by My Legal Limited
For the respondent: Mr S Whitwell, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Isaacs (“the judge”), promulgated on 6 April 2021. By that decision, the judge dismissed the appellant’s appeal against the respondent’s decision, dated 31 January 2020, refusing to issue her with a family permit pursuant to the Immigration (European Economic Area) Regulations 2016.

2. The appellant, a citizen of Pakistan, claimed that she was dependent on her husband's father, a Portuguese national residing in the United Kingdom ("the sponsor"). The respondent was not satisfied that there was a relationship of dependency.

The decision of the First-tier Tribunal

3. The judge was clearly unimpressed by the evidence provided by the appellant, her husband (also a Pakistani citizen), and the sponsor. In summary, the judge did not accept that a credible account of the sponsor's overall financial affairs in United Kingdom had been put forward and found that the appellant had failed to demonstrate what her outgoings in Pakistan were. Ultimately, the judge concluded that it was the appellant's husband who had been financially supporting her, not the sponsor. On this basis, the judge found that the appellant was not dependent on the relevant EEA national and the appeal was dismissed.

The grounds of appeal and grant of permission

4. The grounds assert that it was permissible for the appellant to be dependent on her father-in-law and that the judge had erred in respect of several adverse credibility findings relating in particular to the sponsors financial affairs. In addition, the grounds that the judge had failed to appreciate that a number of money transfers made to the appellant in 2020 came from the sponsor, including the latest in point of time.
5. Permission to appeal was granted by the First-tier Tribunal on 17 May 2021.
6. Following the grant of permission, the respondent provided a rule 24 response, dated 18 June 2021.

The hearing

7. Mr Karim relied on the grounds of appeal. He submitted that the judge had indeed erred in respect of credibility findings, in part on the basis of a misunderstanding of the evidence. Even if those credibility findings were sustainable, the evidence before the judge had demonstrated that there was at least partial dependency on sponsor. In particular, Mr Karim relied on the remittance receipts from 2020, the final three of which had come from the sponsor, not the appellant's husband. Given the absence of any indication that the appellant had other sources of income, failure to have provided a detailed schedule of expenses in Pakistan was not fatal to her case: she must have been dependent on remittances from the United Kingdom for at least accommodation and food expenses.

8. Mr Whitwell submitted that the appellant's challenge was nothing more than a disagreement with the judge's sustainable findings. In effect, the appellant was asking for the evidence to be viewed in a different light. It was clear from the judge's decision that much of that evidence was unclear and unsatisfactory.

Conclusions on error of law

9. Without intending any disrespect to the representatives (to whom I am grateful for their concise submissions), I intend to state my conclusions in this appeal relatively briefly.
10. I find that the judge did not err as regards his assessment of credibility of the evidence from the sponsor and the appellant's husband. Having looked at the evidence for myself, it was open to the judge to find that there was a distinct lack of clarity (to say the least) relating to the payment of £600 to the sponsor by his adult children: see [34]. It may be that these individuals were in fact earning more than £600 in wages a month, but that was not apparent from the evidence itself, in particular that emanating from the sponsor. It is one thing to argue after the event that the judge "should" have interpreted the evidence in a different manner; it is something else to show that findings made on the evidence in fact provided are vitiated by error of law. Here, the judge considered the evidence before him and reached a sustainable finding thereon.
11. Similarly, the judge was entitled to find that the evidence relating to why the sponsor had not made payments during a particular period of time was unclear: see [35]. At [36], judge was entitled to regard the evidence as to the source of certain payments to be inconsistent. The effect of these findings was that financial support had come from the appellant's husband's own funds.
12. I appreciate that there was, in respect of the adverse points mentioned above, an alternative view of the evidence which would have been supportive of the sponsor's evidence and the appellant's case. However, that is not the test to be applied.
13. I turn to the issue which, at first glance, caused me some concern as to the correctness of the judge's consideration of the remittance receipts. These covered a period from September 2019 to October 2020 (I was informed by Mr Karim that this was the latest date for which evidence was permitted to be filed and served, but having looked through the file, I cannot see any directions emanating from the First-tier Tribunal to that effect). The receipts from April, May, and June 2020, had come from the appellant's husband. Yet those prior to and following that period were all from the sponsor. Initially, I was attracted to the submission that the judge had failed to engage with the documentary evidence of support emanating from the sponsor himself, notwithstanding the plainly sustainable finding that some of the payments had come from the appellant's husband's own funds.

14. However, the judge did not base his overall finding that the appellant's husband was the provider of financial support solely on the 2020 remittance receipts. At [14], [37], and, in particular, [43], the judge referred to the sponsor's evidence that the appellant's husband had used his own funds for payments to her over the last "1 to 2 months." The only sensible reading of this is that the husband had provided financial support in the period running up to the hearing before the judge in March 2021. In light of what the judge described as a "patchy" evidential picture, he was entitled to reach the overall conclusion that it was the husband, and not the sponsor, who was providing the financial support. The adverse findings discussed earlier had the effect that the husband was not simply a conduit for the provision of funds by the sponsor.
15. It follows that the to find that the appellant was not an extended family member of the sponsor because whilst the funds provided from the United Kingdom may well have been for her essential living needs, they did not emanate from an EEA national.
16. There are no errors of law in the judge's decision and the appellant's appeal to the Upper Tribunal must be dismissed.

Anonymity

17. The First-tier Tribunal made no direction and there is no reason for me to do so.

Notice of Decision

18. **The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.**
19. **The decision of the First-tier Tribunal shall stand.**

Signed: *H Norton-Taylor*

Date: 11 October 2021

Upper Tribunal Judge Norton-Taylor