



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

Appeal Numbers: EA/00894/2021  
UI-2021-000970

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17 March 2022  
Extempore**

**Decision & Reasons  
Promulgated  
On 30 May 2022**

**Before**

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR  
DEPUTY UPPER TRIBUNAL JUDGE JARVIS**

**Between**

**ENTRY CLEARANCE OFFICER**

Appellant

**and**

**MS FATEHA BEGUM  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr S Walker, Senior Home Office Presenting Officer  
For the Respondent: Mr S Karim, Counsel, instructed by Legit Solicitors

**DECISION AND REASONS**

1. We will refer to the parties as they were before the First-tier Tribunal: therefore the Entry Clearance Officer is once more “the Respondent” and Ms Begum is “the Appellant”.
2. This appeal is brought by the Respondent against the decision of First-tier Tribunal Judge Clarke (“the judge”), promulgated on 2 September 2021, by

which he allowed the Appellant's appeal under the Immigration (European Economic Area) Regulations 2016 ("the Regulations") on the basis that the Appellant, a citizen of Bangladesh, was an extended family member by virtue of her dependency upon the Sponsor, her brother, an EEA national (Portuguese) who had been exercising Treaty rights in the United Kingdom.

3. The judge was satisfied that the Sponsor had provided truthful evidence at the hearing and in light of this and other relevant sources, that he had been providing the Appellant's sole source of income since approximately 2007. This was by way of money transfers and cash either taken there by the Sponsor himself or provided to others who took the money back to Bangladesh. The judge concluded that in light of the evidence in the round, the financial support had gone to meet the Appellant's essential living needs, as required by relevant case law from the CJEU and Court of Appeal.
4. The Respondent was unhappy with this decision and prepared grounds which asserted that the judge had apparently "overlooked/glossed over" material family circumstances in the case. It was said that the Sponsor's evidence concerning the existence of a younger brother who had lived "in the same household as the Appellant" and other matters had only emerged during the course of cross-examination and that this "damaged his [the Sponsor's] credibility". As the Appellant had not apparently lived alone it was "reasonable to assume" that the brother living in Bangladesh had assisted the Appellant with her essential daily needs.
5. It was also asserted that the judge had apparently failed to find that evidence of regular remittances during 2021 were all "self-serving", given that they followed the refusal of the application for an EEA family permit. In light of the complaints put forward, it was "unclear" as to how a finding could have been made that the Appellant had been solely reliant on the Sponsor's financial support.
6. Permission was granted by the First-tier Tribunal on 22 October 2021.
7. At the hearing before us Mr Walker, in his customary fair and realistic manner, accepted that there were "some difficulties" with the Respondent's challenge in this case. He acknowledged, quite rightly in our view, that the judge had considered all of the evidence in the round and had made a number of findings in relation to the Sponsor's credibility and his provision of financial support over the course of time, which when considered together, indeed went to support the conclusion that the Appellant had at all material times been dependent upon the Sponsor for her essential daily living needs.
8. Mr Walker's position was entirely consistent with our provisional view that the judge's decision disclosed no errors of law whatsoever.
9. There are no errors of law in this case. It is plain to us, having regard to the need to read decisions holistically and sensibly, that the judge did

indeed have regard to all relevant evidence. The fact that certain matters emerged in cross-examination does not of itself disclose an error of law, as was apparently the view taken by the author of the grounds. The judge specifically had regard to the timing of this evidence and dealt with it at at least two passages within his decision. The judge was fully entitled to regard the Sponsor's evidence as being credible and that it had been provided in "a straightforward and unequivocal" manner.

10. The grounds of appeal are inaccurate insofar as they assert that the brother in Bangladesh was living in the same property as the Appellant. That was clearly not the case. He had resided in an adjoining property with his own family in respect of which he provided financial support. There was no evidence before the judge to indicate that this brother had provided any financial support to the Appellant. We are concerned by the inaccuracy in the grounds of appeal. We are also concerned with the failure of the grounds to make any reference to the judge's findings on the provision of cash, in addition to money transfers. The provision of cash remittances is dealt with at paragraphs 28 and 29 of the judge's decision. This aspect of the Sponsor's evidence was found to be credible. The grounds should have had regard to this. Frankly, the fact that they do not is close to being disingenuous.
11. The judge also had regard to the wider context, including the circumstances of the Appellant's father and independent evidence quoted at paragraph 34 of his decision. A letter from a regional administrator in Bangladesh confirmed the provision of support by the Sponsor to the Appellant. This had not been challenged by the Respondent and the judge was fully entitled to place some weight on it when assessing the evidence in the round. The judge was fully aware of the gaps in evidence as regards the provision of financial support in certain years. This was specifically addressed at paragraph 38. Again, the grounds simply fail to have regard to what the judge actually said on the face of his decision.
12. The judge directed himself correctly to the relevant law and there has been no assertion to the contrary. The judge also went on to consider the issue of the Sponsor's entitlement to certain benefits in the United Kingdom and dealt with this in a manner which was plainly open to him.
13. In our judgment it is plain that there were never any even arguable errors of law in the judge's decision. The grounds of appeal are poor and misleading to a material extent (although we do not suggest any bad faith whatsoever on the part of the author).
14. We also express our concern about the grant of permission. In our recent experience it seems to us that the First-tier Tribunal is on occasion currently failing to scrutinise grounds of appeal sufficiently so as to ensure its role as an effective filter mechanism for challenges which frankly stand no prospect of success whatsoever. The grant in this particular case is an example of a failure to have seen what in our view was plain all along, namely that this was a perfectly sound decision and that the grounds were

nothing more than a poor attempt at disagreement without beginning to identify any error of law.

**Notice of Decision**

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

**The appeal to the Upper Tribunal is accordingly dismissed.**

**No anonymity direction is made.**

Signed H Norton-Taylor

Date: 30 March 2022

Upper Tribunal Judge Norton-Taylor