



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

Appeal Number: UI-2021-001815  
EA/04951/2021

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 5 September 2022**

**Decision & Reasons Promulgated  
On 10<sup>th</sup> October 2022**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**Zulfiqar Ahmed  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Mr Gajjar

For the Respondent: Mr Whitwell, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan born on 8 December 1980. He appealed against a decision of the Entry Clearance Officer dated 12 March 2021 refusing him an EEA Family Permit under European Community law as the extended family member of an EEA national exercising Treaty rights in the United Kingdom. The First-tier Tribunal, in a decision promulgated on 21 November 2021, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Ground 1 asserts that the judge made a material error of fact. At [12], the judge wrote:

The money transfer receipts in the appellant's bundle are dated 2020. I find that whilst some funds were sent by the sponsor to the appellant from the United Kingdom, there is limited evidence about the appellant's financial circumstances in Pakistan. He has not provided evidence of his bank account when his employment was terminated in Saudi Arabia in 2016. I find that given the length of time that he worked in Saudi Arabia, I do not find it credible that he only had funds to live on for a period of two months following the end of that employment. Nor has he provided documentary evidence of his work visa and when that ended.

The appellant submits that the judge has failed to have regard for the fact that he had produced in evidence receipts for remittances for the period 2016-2020 and not just for 2020. The judge had, therefore, misunderstood the evidence and her decision falls to be set aside. The respondent submits that the error is not material and appears to be typographical only. At [2] the judge refers correctly to 'a number of money transfer receipts showing payments made to him by the sponsor between 8 October 2016 and 15 February 2021' and again at [14] she finds as a fact that it was not '...credible that from 2016 the appellant was financially dependent upon the sponsor.' [my emphasis] The respondent submits that the judge clearly understood the evidence correctly. The appellant submits that the references at [2] and [14] are effectively only re-statements finding the respondent's case and do not show a proper engagement with the correct evidence as part of the analysis.

I find that I agree with the respondent's submissions. I find it likely that [12] does contain a typographical error; the fact that the judge refers twice in the decision to the correct period (2016-2020) and crucially at [14] where she makes a finding of fact cannot reasonably have left the parties in any doubt that she had determined the appeal by reference to a correct factual matrix.

3. The remaining grounds are without merit. Ground 2 asserts that the judge unreasonably expected the appellant to corroborate by production of a bank statement his claim that, following employment in Saudi Arabia, he only had sufficient funds to meet his essential living expenses for 2 months. Mr Gajjar, who appeared at the initial hearing for the appellant, acknowledged that the reference in grounds to *ST (Corroboration - Kasolo) Ethiopia* [2004] UKIAT 00119 was inappropriate as that authority concerns asylum claims only. Mr Whitwell, who appeared for the Entry Clearance Officer, submitted that the judge had simply been making the valid point that it was for the appellant to discharge the burden of proof and that, by failing to produce evidence of the funds he had available after he had finished working in Saudi Arabia, the appellant had not established to the necessary standard of proof that his circumstances at that time and subsequently in Pakistan had been and are now as he has claims. In my opinion, that latter submission is correct. The judge raised a legitimate issue regarding the funds likely to be available to the appellant following

his employment and it was for the appellant to adduce sufficient evidence to discharge the burden of proving that his circumstances are as he claimed. The judge did not err in law by finding that that the appellant had failed to do so.

4. At [12] the judge found that the appellant had failed to prove that he 'only had funds to live on for a period of two months following the end of that employment in [Saudi Arabia].' The assertion in the grounds that 'the implication by the Judge was clearly that the Appellant had such sufficient funds upon his termination of employment in Saudi Arabia to have rendered him financially independent from 2016 to the date of the decision' is, frankly, nonsense. The judge makes no such implication. What the judge has clearly done is to identify specific lacunae in the appellant's evidence and to find that he had not discharged the burden of proof. That was a conclusion patently available to the judge on the evidence.
5. In the circumstances, I dismiss the appeal.

### **Notice of Decision**

The appeal is dismissed.

Signed

Date 5 September 2022

Upper Tribunal Judge Lane