



**Upper Tribunal**

**(Immigration and Asylum Chamber)**  
**[UI-2021-000909]**

**Appeal Numbers: EA/06428/2021**

**EA/06429/2021 [UI-2021-000911]**

**THE IMMIGRATION ACTS**

**Heard at: Manchester Civil Justice  
Centre  
On : 11 March 2022**

**Decision & Reasons Promulgated  
On the 25 April 2022**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**HUMA GULL  
HAROON MASOOD**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr L Singh, of Top Immigration Services

For the Respondent: Mr A Tan, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellants are nationals of Pakistan, born on 9 September 2001 and 12 March 1999 respectively, and are siblings. They appeal, with permission, against the decision of the First-tier Tribunal dismissing their appeals against the respondent's decision to refuse to issue them with EEA family permits to enter the UK as the extended family members of an EEA national under the Immigration (European Economic Area) Regulations 2016.

2. The appellants applied for EEA family permits on 22 December 2020 to join their brother-in-law, their sister's husband, a Spanish national who was exercising treaty rights in the UK. The respondent refused the appellants' applications on 25 March 2021 as it was not accepted that they were extended family members in accordance with regulation 8(2) of the EEA Regulations. The respondent was not satisfied that the appellants were dependent upon the sponsor as there was insufficient evidence of their financial circumstances and their family members' circumstances to show that their essential needs could not be met without the financial support of the sponsor. The respondent did not, furthermore, consider that the six money remittance receipts from the sponsor to the appellants and their mother, dated immediately prior to their application, were sufficient proof of the appellants being financially dependent upon him.

3. The appellants appealed against that decision and their appeals came before First-tier Tribunal Judge Sarwar on 25 August 2021. The judge heard from the sponsor and his wife, the appellants' sister, Naila Rukh. Ms Rukh gave evidence that her husband had been financially supporting the appellants since their father passed away in 2016 and that she had contributed to their financial support after finding employment subsequent to her arrival in the UK in 2018. The judge noted that the remittance receipts produced by the appellants only started on 6 February 2021 which was after they had made their applications and that the receipts dated prior to that date had been addressed to Yasmin Akhtar who was the appellants' mother, who had come to the UK in March 2021 as a dependant of the sponsor. The sponsor and his wife maintained that they supported the appellants jointly, although the remittance receipts were in the name of Ms Rukh and not the sponsor, and also maintained that the money sent to Ms Akhtar when she was still in Pakistan was shared between her and the appellants.

4. The judge considered that the sponsor had not presented a clear picture of his financial situation and, whilst his oral evidence was that he supported his wife, his mother-in-law and the appellants, the judge was not satisfied on the evidence provided that he was supporting the appellants. The judge found further that the appellants had failed to provide a clear picture of their circumstances so as to establish what their essential needs were and how much money was required and for what purpose. The judge was not satisfied that the appellants had met the burden of establishing dependency and was not satisfied that it was appropriate to issue a family permit under regulation 12(4)(c). He did not find that the appellants had shown that they were dependent upon the sponsor and he found that the requirements of regulation 8 were not met. He accordingly dismissed the appeals in a decision promulgated on 21 September 2021.

5. The appellants sought permission to appeal to the Upper Tribunal on grounds which can be distilled and summarised as follows: that the judge had failed to accord an anxious and rigorous degree of scrutiny and had missed out key facts and that he had consequently made adverse credibility findings based on error; that the judge had failed to consider the important role played by the appellants' mother in their upbringing and had failed to give

consideration to the fact that she had been granted a family permit and was currently in the UK; that the judge had misdirected himself by focussing on the appellants' sister providing support rather than the EEA national sponsor; and that the judge's decision was unfair.

6. Permission was granted by the First-tier Tribunal on 15 November 2021 on the grounds that the judge had arguably erred by giving inadequate and inconsistent reasons for his findings, such as his finding at [21] that the sponsor supported the appellants as opposed to his finding at [22] that he was not satisfied that the sponsor was financially supporting the appellants.

7. The respondent filed a rule 24 response resisting the appeal, submitting that there was no such inconsistency as the judge was not making a finding at [21] but was simply making an observation on the sponsor's oral evidence.

8. The matter was then listed for hearing and came before me. Both parties made submissions.

9. Mr Singh relied upon the grant of permission and the contradictions in the judge's findings at [21] and [22]. He submitted further that the judge was wrong to find that there was insufficient evidence of dependency and of the appellants' essential living needs, when there was evidence of such in the statements from the sponsor (at [10] and [14]) and his wife (at [13]).

10. Mr Tan submitted that the grant of permission was not based upon a matter in the grounds, but in any event there was no contradiction as the judge was simply making an observation of the sponsor's oral evidence at [21], rather than a finding. He submitted further that the grounds were essentially a series of disagreements and an attempt to re-argue the case and did not identify any errors of law in the judge's decision. The evidence of remittances was all from the sponsor's wife and not the sponsor, but she was not an EEA national. In any event the main reason for the appeals failing was the lack of evidence of the appellants' essential needs and concerns about discrepancies in the evidence which had been submitted, as set out at [25].

## **Discussion**

11. As Mr Tan submitted, it is relevant to note that the grant of permission was made on a matter not even raised in the grounds, namely an apparent contradiction in the judge's findings at [21] and [22]. On that basis alone the appellant's appeal is on weak grounds.

12. In any event, as stated in the respondent's rule 24 response of 15 December 2021 and as submitted by Mr Tan, it is plain that there is no such contradiction. The relevant finding was made at [22], where the judge considered that the sponsor had failed to provide an accurate account of his financial obligations and, as such, considered himself unable to conclude that the sponsor was financially supporting the appellants. The contents of [21] did not make a contradictory finding but consisted simply of the judge's recording and observation of the sponsor's oral evidence.

13. Aside from relying upon the grant of permission, Mr Singh also submitted that the judge was wrong to say that there was a lack of evidence of financial support and a lack of evidence of the appellants' essential living needs. He relied upon the statements of the sponsor and his wife in regard to those matters in submitting that there was such evidence before the judge. However the judge was entitled to require there to be independent evidence of such circumstances, outside the statements of the witnesses, and he provided full and cogent reasons for concluding that no satisfactory evidence had been produced.

14. At [17] to [19] he made the point that the remittance receipts in the appellants' names all post-dated their applications and that the receipts pre-dating their applications were for funds sent to their mother who had since come to the UK and he also noted that the sponsor was unable to provide a clear picture of the support he claimed to give. On that basis the judge was fully entitled to conclude that there was unsatisfactory evidence of financial support from the EEA national sponsor.

15. In any event, as Mr Tan submitted, it was not only a matter of providing evidence of funds remitted in order to demonstrate dependency for the purposes of regulation 8, but there was a requirement to show that the funds were actually required for the appellants' essential living needs. He submitted that the judge had properly found that the appellants had failed to demonstrate that, as there was no satisfactory evidence of what their circumstances were. Mr Singh's only response to that was to reiterate his previous reliance upon the witness statements of the sponsor and her husband. However it seems to me that the judge was perfectly entitled to consider that the evidence from the witnesses was not sufficient in itself, particularly where there were concerns about the reliability of the documentary evidence, as stated at [25].

16. In the circumstances the grounds do not establish that the judge materially erred in law in his decision. The written grounds themselves, as Mr Tan submitted, were not clearly set out and appeared to be an attempt to re-argue the case rather than identify particular legal errors in the judge's decision. Mr Singh's submissions added nothing material to the grounds and were essentially a disagreement with the judge's decision. The judge was perfectly entitled to conclude that the required dependency had not been demonstrated and that the requirements of regulations 8 and 12 were not met. He gave cogent reasons for so concluding and he was fully and properly entitled to dismiss the appeal on the basis that he did.

## **DECISION**

17. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Dated: 14 March 2022