



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/07319/2013

THE IMMIGRATION ACTS

Heard at Glasgow
on 19th September 2013

Determination promulgated
On 23rd September 2013

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

MIAN MUHAMMAD ZAHID

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Miss S Ghafar, Solicitor, of Buchanan Macleod Solicitors, Glasgow,
on instructions of M A Consultants, London

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

DETERMINATION AND REASONS

1. The Appellant appeals against a determination by First-tier Tribunal Judge Balloch, promulgated on 6th June 2013, dismissing the appeal which he brought on grounds of family and private life under Article 8 of the ECHR, both within and outwith the Immigration Rules.

2. Miss Ghafar made her submissions along the lines of the grounds in the application for permission and of the grant of permission. She submitted that the key error was in relation to the best interests of the children involved in the case, and that it was such as to require an entirely fresh hearing in the First-tier Tribunal.
3. Mrs O'Brien submitted that insofar as the grounds attacked the judge's reasoning on credibility, the negative conclusions were based on properly identified inconsistencies in the evidence. As to the best interests of the children, Mrs O'Brien pointed out that these are nephews and a niece of the Appellant, only the youngest of whom is still a child. She will be aged 16 next month. This was a family with a history of unfortunate circumstances, but the only child involved remains in her primary family unit with her father and brothers. The judge's approach was brief but sufficient. A step-by-step analysis of the best interests of the child under Article 8 would have made no difference to the outcome, which could hardly have been otherwise.
4. Miss Ghafar in reply stressed that all children of the family, even as young adults, are still at an emotional stage of their lives. The Appellant undertook daily household chores. They all depend on him and spent considerable time with him. The Appellant's role enables the father of the family to attend to his business and to avoid any reliance on public funds. Removal should have been found to be a disproportionate step.
5. I reserved my determination.
6. Ground 1 of the application, which suggests that the judge may have applied a higher standard of proof than the balance of probabilities, is not made out. The determination contains no such suggestion.
7. The grounds make no meaningful attack on the adverse credibility findings. As the Presenting Officer pointed out, the judge identified significant contradictions between what the Appellant said in evidence and what his brother-in-law said. The judge was entitled to find the evidence unreliable.
8. It was of some significance in the proportionality balance that the Appellant's circumstances on return to Pakistan had not been shown to be as bleak as claimed.
9. As Mrs O'Brien pointed out, there is only one child in the case, 16 next month. The evidence did not disclose that her interests would be significantly disadvantaged by the Appellant's absence from the UK. The Appellant's nephews and his niece would prefer to have him here, but the judge was correct at paragraph 49 to note that while the Appellant sought to give the impression of young children in need of care, this is a family of young adults and one child, all of an age to take responsibility for caring for themselves and for looking after the home. The judge was also correct to note that there was no reason why close contact could not be maintained after the Appellant's return to Pakistan.

10. The conclusion reached on proportionality, taking account of the best interests of the child for the relatively small relevance it had, was properly open to the judge, and the reasoning given is legally adequate.
11. The determination of the First-tier Tribunal shall stand.
12. No anonymity order has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

20 September 2013
Upper Tribunal Judge Macleman