



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/29049/2012

Heard at Field House  
on 23<sup>rd</sup> July 2013

Determination Promulgated  
on 31<sup>st</sup> July 2013

**THE IMMIGRATION ACTS**

Before

THE PRESIDENT, THE HON MR JUSTICE BLAKE  
UPPER TRIBUNAL JUDGE HANSON

Between

MD ALI AHME  
(Anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr J P Seeboruth of VR & Shaw Solicitors.

For the Respondent: Mr N Bramble Senior Home Office Presenting Officer.

**DETERMINATION AND REASONS**

1. This is an appeal against a determination of First-tier Tribunal Judge Cockrill promulgated on the 19<sup>th</sup> February 2013 in which he dismissed the appellant's appeal, under both the Immigration Rules and on human rights (Article 8 ECHR) grounds, against the refusal to grant him indefinite leave to remain in the United Kingdom on the basis of 14 years continuous residence.

2. Permission to appeal was granted on a renewed application to the Upper Tribunal on 15<sup>th</sup> May 2013.
3. Having considered the determination, the evidence, and submissions made, we find no legal error material to the decision to dismiss the appeal has been demonstrated. We give our reasons below.

### **Discussion**

4. The appellant, who was born on the 1<sup>st</sup> February 1974, is a citizen of Bangladesh. He claims to have entered the United Kingdom on 14<sup>th</sup> December 1996. As proof of this fact he relied upon a photocopy of a passport issued to him on 6<sup>th</sup> June 1995 in which there is a UK entry vignette and UK Immigration Officer's stamp. The appellant claims the original passport has been lost.
5. In the refusal notice dated 28<sup>th</sup> November 2012 the respondent states that the vignette is counterfeit as is the Immigration Officer's stamp. Judge Cockrill records in paragraph 37 of the determination that Mr Seeboruth acknowledged to some degree that the passport had been tampered with, although alleged this was by an agent. We accept that in light of this evidence the Judge was entitled to place little weight upon this evidence as proof of the date of entry. This decision is in accordance with the evidence and has not been shown to be legally wrong.
6. Mr Seeboruth then submitted that although the vignette in the passport may have been shown to be false the particulars in the passport itself were never challenged. There are two responses to that submission. The date of the issue of the passport does not indicate when the claimant first came to the United Kingdom. The passport might have been issued for some other purposes. Second the fact that the appellant relied on the entry dates in the vignette rather than the true circumstances of his entry given by reference to the date of the issue of the passport means that the judge was entitled to doubt his evidence, particularly where the passport was only a photocopy in the first place.
7. The decision to refuse the application and direction for the appellant's removal from the United Kingdom was made on the 30<sup>th</sup> November 2012. In AA (DP3/96 - Commencement of Enforcement action) Pakistan [2007] UKAIT 00016 the Tribunal held that, for the purposes of DP3/96, service of a notice of intention to deport or service of illegal entry papers amount to decisions that 'stop the clock'. Time spent in the United Kingdom following such service will not be counted for the purposes of applying that Policy. It was therefore only necessary for Mr Ahme to prove that he has been in the United Kingdom continuously for at least fourteen years before this date which will be from 29<sup>th</sup> November 1998. If evidence exists to prove entry and residence since this date the issues relating to his alleged date of entry in 1996 and the vignette may not be material.

8. There are two pieces of relevant evidence the first being a P60 for the tax year 1996/1997 and the second an Abbey National bank statement. The Judge considered this evidence. In paragraph 44 he states no weight may be placed upon the P60 as there is no reliable evidence from anyone associated with the alleged employer to prove the reliability of that document. We accept there are two letters in the bundle one from a Mr S Uddin of the Passage of India restaurant dated 4<sup>th</sup> February 1997 confirming the appellant's employment and a weekly wage of £60.00 paid in cash and another from Belson and Sons signed by a Mr S Belson and dated 18<sup>th</sup> July 2008 stating the author of that letter has known Mr Ahme since May 1998 from the restaurant. The letter states the appellant has been continuously in the United Kingdom but fails to state the basis on which this assertion is made.
9. In addition to the finding in relation to the falsified documents Judge Cockrill stated in paragraph 43 of the determination :

“I have to say that I also found the Appellant an unreliable witness and that lack of credibility and reliability permeated his whole evidence”
10. The fact Judge Cockrill was cautious in relation to the evidence is understandable in light of the falsified document. Such an approach in this case does not disclose any legal error. There was no attendance by the authors of any documents or indeed any other relevant supporting oral evidence, a fact commented upon by the Judge. A P60 is not a document issued by HMRC confirming an individual's employment status and earnings but a form ordinarily completed by an employer (End of Year Certificate) and issued to taxpayers at the end of a tax year. The ability to produce other falsified documents and the absence of corroborative evidence from a reliable source in relation to his alleged employment at the relevant time justified little weight being attached to this evidence. The findings in relation to the Abbey National bank statement, which the appellant claimed in his oral evidence not to have opened, are also sustainable.
11. It is settled jurisprudence that weight is matter for a judge provided it is shown that the evidence has been considered with the degree of care required by the case in question and adequate reasons have been given for the findings made. In this appeal we are satisfied this is what Judge Cockrill did as a result of which he concluded that the appellant had not discharged the burden of proof upon him to the required standard to prove he was able to satisfy the relevant immigration rule. This is a finding that is within the range of findings the Judge was entitled to make when considering the evidence as a whole and we find no legal error proved.
12. We also find no legal error in the Judge not making a finding in relation to the actual date of entry, as the evidence did not permit such a finding to be made.

13. Mr Seeboruth also sought to challenge the dismissal of the appeal on Article 8 grounds. He accepted the case relates to private life recognised by Article 8 ECHR only. He submitted that although the actual date of entry could not be identified the appellant had been in the United Kingdom for a long time, over ten years.
14. It is not disputed that the appellant has been here for a considerable period of time but that is not the issue. The Judge noted the nature of his private life was limited [53] and that claims made in relation to the same were not supported by cogent evidence. It is not just the period of time which is the relevant factor but the nature of the ties established in the country during this period that form the basis of an individual's private life. The reference to the ten year lawful residence rule and submission that this should have persuaded the Judge to find in the appellant's favour has no merit. The ten year rule applied to those with lawful residence which this appellant does not have. He never achieved fourteen years residence that would have been the relevant period at the material time. The nature of the private life was limited and the weight to be given to such private life established when the appellant had no leave to remain was also limited. The finding that any interference with his private life was proportionate in all the circumstances is within the range of findings the Judge was entitled to make on the evidence. This ground is, in effect, a disagreement with the outcome of a properly conducted balancing exercise and no more. No legal error is proved.

**Decision**

15. **There is no material error of law in the Immigration Judge's decision. The determination shall stand.**

Signed.....  
Judge of the Upper Tribunal

Dated the 29<sup>th</sup> July 2013