



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: IA/31867/2013

THE IMMIGRATION ACTS

Heard at: Manchester
On: 4th August 2014

Determination Promulgated
On 9th October 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

Perveen Akhtar

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr Moksud, First Global Immigration
For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Pakistan date of birth 25th September 1949. She appeals with permission¹ the decision of First-tier Tribunal Judge Manuel² to dismiss her appeal against the Respondent's decision to curtail her leave to enter the United Kingdom as a visitor, that decision being made at Manchester Airport on the 24th August 2013.
2. The Appellant has been a regular visitor to the United Kingdom since 2001: she has two sons and two daughters in the UK. On the date that she last sought entry she was stopped by immigration officials at Manchester Airport. She was questioned about her use of the NHS, as was her son. She told officers that she

¹ Permission granted by First-tier Tribunal Judge Osbourne on the 3rd April 2014

² Determination promulgated on the 17th January 2014

brought her diabetic medication with her from Pakistan and that she has only ever used the NHS in an emergency, ie if she ran out of medication. The Appellant also stated that she had once visited a hospital because she had a bad knee, was x-rayed and was given painkillers. A bag search was conducted and it was found that the Appellant had a significant quantity of prescription-only medications with her that had all been dispensed by pharmacies in the UK. The immigration officer conducted checks. It emerged that the Appellant had registered with a GP, had made eleven outpatient appointments with The Royal Blackburn Hospital and had received over £2000 worth of treatment that she was not entitled to. The Officer was satisfied that the Appellant had deliberately used deception in obtaining her visa and in seeking leave to enter. She had failed to disclose material facts, namely that she had registered and used NHS services to which she was not entitled. Furthermore she had provided the NHS with a different date of birth from that shown on her passport and visa, indicating a further attempt to deceive. The Appellant was accordingly refused leave to enter and her visa cancelled. She was granted temporary admission to enable her to pursue her appeal in-country.

3. The appeal came before Judge Manuel in December 2013. In a detailed determination she gives a number of reasons why she found that the Appellant did indeed intend to deceive. The Appellant was evasive when questioned at port. She had initially said that she brought everything, even her insulin, from Pakistan. When it was put to her that the labels showed that they were dispensed in the UK she contradicted her earlier answer by acknowledging that in fact she did get some medication from here. The medications themselves indicated that they were all from the UK. Judge Manuel noted the Appellant's evidence that it was "not her fault" since she had never been told that she had to pay for the medication. She rejects that explanation, finding that it would have been evident to the Appellant and her educated family members - all resident in the UK - that the Appellant was not entitled to free NHS care. Similarly the Appellant's claim that the wrong date of birth held by her GP is the result of a "clerical error" is rejected. Judge Manuel notes that the Appellant had "selective memory" about whether she had provided the surgery with her passport when she first registered there. Evidence emerged during the hearing to indicate that the Appellant's use of the NHS was even greater than had first been shown. She admitted to seeing a diabetic specialist nurse on a regular basis during her prolonged visits here. She had effectively been coming for approximately half of each year since 2001, and obtaining free prescriptions and hospital appointments on each visit. Judge Manuel rejects as untrue the Appellant's claim that she could not remember having two procedures at The Royal Blackburn Hospital, including one where a camera tube was inserted into her throat to look inside her stomach. Having taken all of the evidence into account Judge Manuel was wholly satisfied that the Appellant had used deception. She upheld the Respondent's decision and dismissed the appeal.
4. The first ground of appeal is that the determination itself contains clerical errors (for instance the Appellant has a daughter in Belgium, not a son as recorded by

Judge Manuel) and this means that the Tribunal should not have attached weight to the “clerical error” on the part of GP staff. This is not a legal challenge. It is a fatuous argument. It is plain from the determination overall that the Judge assessed all of the evidence in the round before upholding the allegation of deception. See for instance paragraph 50 where she says that she has “considered the evidence as a whole”.

5. It is next alleged that the First-tier Tribunal erred in failing to take account of the fact that the Appellant has now offered to pay for the treatment she has received. That is entirely irrelevant to the matter of her past conduct. Now that she has been discovered it is hardly surprising that she has offered to pay.
6. Astonishingly the grounds next plead that the Appellant did not in fact attend the eleven outpatient appointments that were made for her. Before me Mr Moksud pursued this point, submitting that passport records show that she was in fact in Pakistan for a number of them. I am incredulous that the Appellant’s representatives consider this to be a good point. If Judge Manuel omitted to look at this travel history then this has only saved the Appellant from the further negative finding that I am about to make: she took the NHS so for granted that she and her family considered it acceptable to take up precious appointment time and not even bother to turn up.
7. The grounds close by submitting that “no consideration was given to human rights. The appellant is an old lady, she is sick and is a widow and needs care and compassion from her family”. Her family should perhaps have considered this before they connived on numerous occasions for her to breach the conditions attached to her stay as a visitor. On the facts before me the Appellant was not so sick that she was not able to take regular long distance flights and to live without her UK-based family in Pakistan for at least half of the year. The First-tier Tribunal make unambiguous findings that the Appellant, and her family, deliberately employed deception to enable her to access services to which she was not entitled over a 12 year period. It is inconceivable that the fact that she is a widow who has diabetes would be sufficiently compelling to found an arguable Article 8 claim in those circumstances. There was therefore no error in not addressing this matter.

Decision

8. The determination of the First-tier Tribunal does not contain an error of law and it is upheld.

Deputy Upper Tribunal Judge Bruce
30th September 2014