



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

Appeal Numbers: VA/12074/2013,
VA/12078/2013 &
VA/12076/2013

THE IMMIGRATION ACTS

Heard at Field House

On 31st October 2014

**Determination
Promulgated**

On 5th October 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE LINDSLEY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MRS ZAIN UL HUDA (1)
MRS ASMA GUL (2)
MASTER HAMDAN ANWAR (3)
(NO ANONYMITY DIRECTION MADE)**

Respondents

Representation:

For the Appellant: Mr P Armstrong, Home Office Presenting Officer

For the Respondent: Mr J Anwar, Sponsor

DETERMINATION AND REASONS

Introduction

1. Although this is an appeal by the Secretary of State I will refer to the parties as they were before the First-tier Tribunal.

2. The appellants applied for entry clearance to come to the UK as family visitors to see Mr Javed Anwar, who is a British citizen. They are citizens of Pakistan. The first appellant is the sponsor's mother; the second appellant is his wife and the third appellant is the sponsor's son. These applications were refused on 29th April 2013 and they appealed. Their appeals against the refusal decisions were allowed by First-tier Tribunal Judge Stanford in a determination written on the 11th August 2014.
3. Permission to appeal was granted by Judge of the First-tier Tribunal Lambert on 25th September 2014 on the basis that it was arguable that the First-tier Tribunal had erred in law as it may have been that Judge Stanford gave weight to evidence that had only come into being in May and June 2014, regarding the sponsor acquiring qualifications to practise law in Pakistan, which were therefore not relevant to the circumstances at the time of the refusal decisions in April 2013.
4. The matter came before me to determine whether the First-tier Tribunal had erred in law.

Submissions

5. Mr Armstrong relied upon the grounds of appeal. These contended that the First-tier Tribunal Judge had failed to give adequate reasons as to why he found the appellants would return to Pakistan after their visit given the fact that there had been a plan for the second appellant to live permanently with the sponsor in the UK, and she had taken the English test and got a tuberculosis certificate. Judge Stanford erred in placing weight on the certificates showing a law graduate assessment and from the Khyber Pakhtunkhwa Bar Council from May and June 2014 as indicating that the appellants would return to Pakistan.
6. Mr Armstrong contended that Judge Stanford had relied upon post-decision evidence at paragraph 18 of his determination which were not relevant to the decision of the entry clearance officer as this had only come into being over a year after this decision.
7. Mr Anwar said that he and his family had always intended ultimately to return to Pakistan where he would practice law. He had acquired his law degree in 2001. Initially they had prepared to make settlement applications but then they realised that the appellants would never get settlement as they were planning to return to Pakistan in June 2015, and that it would be cheaper and quicker to apply for visit visas. As a result they applied for visit visas in April 2013.
8. I told the parties that I did not find that Judge Stanford had erred in law for the reasons set out below.

Conclusions

9. I find that Judge Stanford clearly understood the date of the decisions to refuse entry clearance in this case (see paragraph 2 of his

determination) and that only evidence appertaining to the time of decision should be considered (see paragraph 6 of his determination).

10. He found that the sponsor had made a plan to return to Pakistan to establish a legal practice there at the time of the decision to refuse entry clearance to the appellants: see paragraph 18 of his determination. He sets out at paragraph 18 of his determination that the appellant had provided evidence of a law degree from the University of Peshawar in 2001 and also a diploma in law taken in Malaysia in 2007 in support of this intention. I find that Judge Stanford's consideration of the Law Graduate Assessment Test taken in Pakistan in May 2014 and registration with the Khyber Pakhtunkhwa Bar Council in June 2014 was therefore legitimate in accordance with DR (ECO: post-decision evidence) Morocco* [2005] UKIAT 00038 as it was evidence that had arisen after the date of decision but which related to circumstances appertaining at the date of refusal, i.e. the plan of the sponsor to return to Pakistan to establish himself as a lawyer.
11. Judge Stanford clearly gave consideration to the possibility that the appellants were coming for settlement. He found that if the second appellant had made such an application it might have succeeded (see paragraph 17 of the determination). However he accepted the evidence of the sponsor that he intended to return to live in Pakistan and in the light of this intention found that the appellants were genuine visitors who could satisfy the Immigration Rules at paragraph 41 and 46A of the Immigration Rules (see paragraphs 23, 24 and 25 of the determination). I therefore find that Judge Stanford has provided adequate reasons for his decisions that the appellants were genuine visitors who would leave the UK at the end of their visit.

Decision

12. The decision of the First-tier Tribunal did not involve the making of an error on a point of law.
13. The decision of the First-tier Tribunal allowing the family visit appeal is upheld.

Deputy Upper Tribunal Judge Lindsley
3rd November 2014