



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

Appeal Numbers: VA/30575/2012
VA/30580/2012
VA/30582/2012
VA/30583/2012

THE IMMIGRATION ACTS

**Heard at Field House
On 14th March 2014**

**Determination Promulgated
On 27th March 2014**

Before

UPPER TRIBUNAL JUDGE RENTON

Between

**SUGHRA FATIMA
AKASHA PERVEZ
AHMED SHOAIB PARVEZ
ANISA PERVEZ AKHTAR
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

ENTRY CLEARANCE OFFICER - ABU DHABI

Respondent

Representation:

For the Appellants: Mr Z Nasim, Counsel instructed by M & K Solicitors
For the Respondent: Mr T Wilding

DETERMINATION AND REASONS

Introduction

1. The Appellants are a family comprising a mother, Sughra Fatima born on 4th May 1967 and her three children, Akasha Pervez born on 20th January 1995, Ahmed Shoaib Parvez born on 16th October 1998, and Anisa Pervez Akhtar born on 3rd December 2001. They are all citizens of Pakistan. They applied for entry clearance to visit the Sponsor, Sohail Qaiser, a son of the First Appellant. Those applications were refused for the reasons given in Notices of Decision dated 24th July 2012. The Appellants appealed and their appeals were heard by Judge of the First-tier Tribunal Rose (the Judge) sitting at Hatton Cross on 2nd April 2013. He decided to dismiss the appeals for the reasons given in his Determination dated 14th April 2013. The Appellants sought leave to appeal that decision, and eventually on 30th January 2014 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Entry Clearance Officer refused the applications under the provisions of paragraph 41(i) and (ii) of HC 395 because he was not satisfied that the First Appellant was a genuine visitor for a limited period of time who intended to leave the UK at the end of her proposed visit. The applications of the remaining Appellants were refused under paragraph 46A(i), (ii), and (iii) of HC 395 for similar reasons. The Entry Clearance Officer came to those conclusions because he was not satisfied that the Appellants' financial circumstances in Pakistan were as claimed, and because there was no evidence as to the whereabouts and circumstances of the husband and father of the Appellants.
4. The Judge dismissed the appeals solely on the basis that he was not satisfied that a reliable account had been given of the family's financial circumstances in Pakistan as stated at paragraph 36 of the Determination.
5. At the hearing, I heard submissions by both parties. Mr Nasim argued that the Judge had erred in law by failing to consider all of the evidence. He referred to the grounds of application and submitted that the Judge had failed to deal with other relevant evidence such as the First Appellant's employment, which was not disputed by the Entry Clearance Officer, and her children's education.
6. In response, Mr Wilding argued that it was apparent that the Judge had considered all the relevant evidence. For example, he had referred to the First Appellant's employment at paragraph 25 of the Determination. The Judge had carried out a detailed analysis of the family's claims as to their financial circumstances and the documents produced in support and had come to the conclusion that the concerns of the Entry Clearance Officer had not been resolved. In particular, there were discrepancies in the documentary evidence which the Appellants had not explained.

Therefore it could not be said that the decision of the Judge was perverse, and the grounds of application could only be described as a disagreement with the decision of the Judge.

7. I found myself in agreement with the arguments of Mr Nasim. It is true that the Judge carried out a thorough analysis of the documentary evidence relating to the financial circumstances of the family of the Appellants in Pakistan, but it was an error of law for him to base his decision purely upon that analysis. The Judge made no finding as to the credibility of the Sponsor, and did not deal with the contents of the Appellants' Bundle of Documents which included a statement by the Sponsor in which he asserted that the intention of the Appellant and her children was no more than to pay him a short visit. I therefore set aside the decision of the Judge. I then proceeded to remake the decision on the basis of the evidence before the Judge. Both representatives declined the opportunity to make further submissions to me.
8. The issue in this appeal is whether the Appellants are genuine visitors for the period as stated by them who will leave the UK and return to Pakistan at the end of the proposed visit. Both the First Appellant and the Sponsor have stated that no more is intended by this visit than for the Sponsor to be visited by his mother and siblings for a period of four weeks on the basis that he would meet all the costs of the visit. I find no reason to doubt the credibility of that evidence. According to the Sponsor's statement, the family is close and there is nothing on the face of it untoward in a mother and her children wishing to see, respectively, their son and brother. I find no reason to doubt that the Appellants will return to Pakistan at the end of their visit. They all live together in Pakistan in a family home with the Sponsor's father. There are other family members and close friends living in Pakistan. The Sponsor's parents are both in work. The First Appellant is a teacher at a Government primary school, and her husband, apart from his employment, owns agricultural land from which the family derives a significant income. The minor Appellants are in education. Therefore all the Appellants have strong family, social and economic ties with Pakistan. The Sponsor has not seen his mother and siblings since February 2011, when he travelled to Pakistan to visit them, and it is understandable that he now wishes to see them again.
9. In the Notice of Decision, the credibility of the Appellants was disputed on the basis that the documentary evidence submitted did not establish the financial circumstances of the Appellants' family in Pakistan, and that it appeared that a large deposit had been made in a bank account just prior to the application. The issue of the deposit has been explained to my satisfaction in paragraph 11 of the statement of the Sponsor dated 25th March 2013. Otherwise, there was sufficient documentary evidence produced to the Judge to show that in addition to the income from employment of the First Appellant, her husband also had an income from employment, and from the sale of crops grown on his agricultural land. Bearing in mind that the Sponsor will meet the majority of the cost of this proposed visit, I therefore do not find that the expense of the visit is disproportionate to the family's financial circumstances in Pakistan.

10. For these reasons I remake the decision by allowing all the appeals.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I re-make the decision in the appeals by allowing them all.

Anonymity

The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I find no reason to do so.

Signed

Date

Upper Tribunal Judge Renton