



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/06336/2014

**THE IMMIGRATION ACTS**

Heard at Manchester Piccadilly  
On 17 August 2015

Decision & Reasons Promulgated  
On 2 September 2015

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BIRRELL**

**Between**

**SATINDER KAUR**  
(ANONYMITY DIRECTION NOT MADE)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: not represented  
For the Respondent: Ms C Johnson

**DECISION AND REASONS**

**Introduction**

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. This is an appeal by the Appellant against a decision of First-tier Tribunal Judge O R Williams promulgated on 23 June 2014 dismissing her appeal against a refusal of an application for leave to remain as a Tier 1 (Entrepreneur) under the Points Based

System and a decision to remove her by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006.

3. The Appellant's case is linked to that of her husband Arminster Singh (IA/20287/2014) as they were part of an Entrepreneurial Team in their Tier 1 applications which were made on different dates and the subject of separate decisions. His case was heard before a different Judge on another date and has also been appealed and also came before me today. While there were some common issues inevitably the decisions nevertheless involved different Judges and different grounds for refusal his appeal is the subject of a separate decision.

### Background

4. The Appellant was born on 20 September 1987 and is a national of India.
5. On 14 November 2013 the Appellant applied for leave to remain in the United Kingdom as a Tier 1 Entrepreneur.
6. On 16 January 2014 the Secretary of State refused the Appellant's application. The refusal letter gave a number of reasons:
  - (a) The application was refused under paragraph 322 (1A) of the Immigration Rules because in support of the application the Appellant submitted a letter from Punjab Bank dated 25 October 2013 that the Respondent was satisfied was false as they confirmed with the issuing body that they had not issued the letter.
  - (b) As a result of the Bank letter in respect of the funds required being false the Appellant could not be awarded the those points required in the points scoring aspect of the application under Appendix A and therefore the application did not meet the requirements of paragraph 245DD.

### The Judge's Decision

7. The Appellant appealed to the First-tier Tribunal and appeared unrepresented. First-tier Tribunal Judge O R Williams ("the Judge") dismissed the appeal against the Respondent's decision. The Judge:
  - (a) Set out the applicable law in relation to the evidence that he could consider.
  - (b) Set out the applicable law in relation to an allegation of forgery reminding himself that cogent evidence was required and a bare allegation of forgery was not enough.
  - (c) Set out the relevant evidence in relation to documentary evidence.
  - (d) He set out in detail the enquiries made by the Respondent in respect of the bank covering letter in relation to the account ending 804 in her father in law Madna Lal's name purporting to come from the Punjab National Bank.
  - (e) He set out the contemporaneous note of the conversation between the UKBA Officer and the Branch Manager Mr N Gulati and the faxed response from the Punjab National Bank confirming that the letter in issue was, in essence, not genuine.
  - (f) He heard oral evidence from the Appellant who claimed to have spoken to the branch manager in question who denied any contact with UKBA. He found that

other than her oral evidence there was no other evidence of this conversation taking place and therefore she preferred the evidence of the Respondent which was documented /contemporaneously recorded and he found it was accurate.

- (g) He accepted that some parts of the letter were true such as the Appellant's father in law having an account in the bank but found that as the claimed balance was not correct he accepted the banks assertion that they had not issued the letter.
8. Grounds of appeal were lodged arguing that;
- (a) The Appellant believes that she was only required to show that she had access to £50,000 not exactly how much money was in her father in laws account.
  - (b) The bank did not confirm in writing that they did not issue the letter.
  - (c) She produced a letter dated 2 July 2014 from the Punjab bank which confirms that the letter dated 24 October 2013 was issued by them.
  - (d) The Judge did not take into account her evidence that her father in law went to the bank showed the manager the documents and asked him to print the letter which he did.
9. On 9 October 2014 First tier Tribunal Judge Chohan refused permission to appeal. The application was renewed and on 4 December 2014 Upper Tribunal Judge Latta gave permission to appeal on the basis that the Judge arguably failed to take into account relevant evidence.
10. At the hearing I heard submissions from the Appellant that :
- (a) There was a document at page 11 of the bundle which was from the web page of the Punjab Bank which was placed before the Judge which confirmed that the bank manager named in the Document Verification Report was incorrect.
  - (b) The Punjab Bank had in a letter dated 2 July 2014 confirmed that they had not been contacted by UKBA and this letter was before the Judge.
  - (c) She relied on the documents and submissions in her bundle.
11. On behalf of the Respondent Ms Johnson submitted that :
- (a) The documents being produced today by the Appellant and claimed to have placed before the Judge were not before the decision maker.
  - (b) Why would the official from the Punjab Bank lie, what motive would he have for claiming that the bank had not issued the letter in question.

## **The Law**

12. Errors of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on facts or evaluation or giving legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
13. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for

an Immigration Judge to fail to deal with every factual issue under argument. Disagreement with an Immigration Judge's factual conclusions, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence of events arising after his decision or for him to have taken no account of evidence that was not before him. Rationality is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration Judge concludes that the story told is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

### **Finding on Material Error**

14. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
15. In a well reasoned decision the Judge set out the law that was relevant to the central issue in this case which was: did the Appellant submit a letter from the Punjab Bank in support of a Tier 1 application that the Bank did not issue. This false letter underpinned the refusal both under paragraph 322 (1A) and the PBS refusal under paragraph 245DD.
16. The Judge set out in detail the contents of a Document Verification Report dated 14 January 2014 14-16 of the decision. He set out both the contemporaneous notes of the conversation between the UKBA official in which they confirmed that they did not issue the letter of 24 October 2013 but also the contents of the written response from the bank faxed to the consular official. He was entitled to conclude in the absence of other evidence that this was cogent evidence that the letter was not one they had issued although he accepted that some of the contents may have been true, such as the fact that the Appellant's father in law had an account at the branch.
17. The Appellant asserted before me that in reaching that conclusion the Judge fell into error because he failed to take into account the evidence she produced from the bank that the letter was genuine and no such enquiry had been made at the branch. Such evidence could potentially have been considered in relation to the refusal under paragraph 322(1A) as that was not limited by section 85(A) in relation to new evidence. The Appellant referred in her grounds of appeal to the Upper Tribunal received on 4 July 2014 only to a letter dated 2 July 2014 from the bank confirming they had no such enquiry was made and they did issue the letter of October 2013 but as this letter post dated the hearing the Judge clearly could not have taken it into account and the Appellant was initially refused permission to appeal to the Upper Tribunal.
18. The Appellant then renewed her application and then suggested that she had submitted grounds of appeal to the First-tier in February 2014 that included a copy letter from the bank dated 5 February 2014 confirming that the letter of October 2013 was genuine. I note that there is no copy of these grounds of appeal in the file nor has the Appellant produced any evidence that such grounds were sent to the court

and the first reference to a letter of that date is in the renewed grounds of appeal. I am satisfied that such grounds and the evidence purportedly included with them were not before the Judge. The Judge makes no reference to the letter in the decision and there is no copy of the letter on file other than that with the renewed grounds of appeal. I am satisfied that this evidence was not before the Judge as it also stands in stark contrast to the oral evidence of the Appellant recorded by the Judge in his written Record of Proceedings:

“Q: Have you a letter to say Bank manager not spoken to him.

A: I don't have one- Bank manager said not our policy to verify. But he will if phone him.”

19. I am therefore satisfied that it was open to the Judge on the evidence before him to conclude as he did:

“The appellant claims that she had spoken to the branch manager at Rajpura who denied any contact with UKBA. However, the appellant has not produced any evidence of the telephone conversation. On balance I prefer the evidence of the UKBA since it is documented/contemporaneously recorded, and so I accept it to be accurate.”

20. The Appellant also claimed that the appeal bundle before the First-tier which is not on file but is part of her renewed application bundle (page 11) included a print out from Punjab Banks website giving a different branch manager for the branch issuing the letter of 24.10.2013 to that named in the DVR. However I am satisfied that this evidence was not before the Judge moreover I note that the print out was dated 2015 and could not have been before the Judge and in addition there is no indication as to what date the individual named in the print out became the Manager.
21. I was therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

## **CONCLUSION**

22. **I therefore found that no errors of law have been established and that the Judge's determination should stand.**

## **DECISION**

23. **The appeal is dismissed.**

Signed

Date 29.8.2015

Deputy Upper Tribunal Judge Birrell