



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: IA/10396/2014  
IA/10418/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 13 January 2015

Decision & Reasons Promulgated  
On 26 January 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE G A BLACK

Between

MR SHAHZADA CHOWDHURY  
MOHAMMAD AMAR SHAHZAD

(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellants: Mrs M Ahammed, Legal Representative, RMS Immigration Ltd  
For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by two appellants, Mr Shahzada Chowdhury and Mr Mohammad Amar Shahzad who are both citizens of Pakistan. They made joint applications for leave to remain as Tier 1 Entrepreneurs under the points-based scheme, under

paragraph 245DD(K). Their applications were refused by the Secretary of State on 7 February 2014.

2. Their appeals were dismissed by the First-tier Tribunal (Judge Walters) on immigration grounds in a determination promulgated on 14 October 2014.

### **Grounds**

3. The appellants submitted grounds for permission arguing that the Tribunal erred in its consideration of the Immigration rules which the appellants met as regards funding issues. They relied on evidence of funds (£50,000) in an account of a third party which would be transferred once leave was granted. Further it was argued that the Tribunal failed to consider Article 8.

### **Permission**

4. Permission was granted by First-tier Tribunal Judge Cox on 26 November 2014. He found all the grounds to be deficient in arguable merit save for one. He granted permission on the basis that the Tribunal Judge failed to deal with Article 8. He was unable to reach any view on whether or not that error was material.

### **Hearing**

5. At the hearing before me the main ground pursued by Mrs Ahammed was that the Tribunal was wrong in its consideration and application of the Immigration Rules. Notwithstanding that the appellant was granted leave on one ground only in relation to Article 8, Mrs Ahammed sought to persuade me nevertheless that there were defects in the Tribunal's consideration under the Rules. Whilst she did not formally seek to renew an application for permission on the first ground of appeal, she wished for me to consider this ground nonetheless and she relied on a skeleton argument. Thereafter she made submissions on Article 8 that there had been no proper consideration of the appellants private lives and that the interference was not proportionate. Mr Avery acknowledged that Article 8 was not addressed by the Tribunal but that this was not material given the lack of evidence to support any Article 8 private life claim.

### **Discussion and decision**

6. I find no material error of law in the decision made by the Tribunal so far as the Immigration Rules are concerned. As stated by Judge Cox, and with which I concur, the findings [28] and assessment by the Tribunal are unassailable. There was insufficient evidence to show that the appellants had access to the funds held by a third party and/or that the funds were genuinely available to the appellants. The Secretary of State relied on an interview conducted with the appellants (the replies are set out in the refusal letter at (ii)) and which in turn the Tribunal relied on. There was no submission or argument before me in respect of the second ground regarding the business plan. In those circumstances I consider only the ground raised that Article 8 was not dealt with. It is certainly correct that the Tribunal erred and failed specifically to deal with this issue although raised in the grounds of appeal.

Nevertheless, I find there is no material error of law. The appellants rely on private life and their case is advanced on the basis of length of residence in the UK, past educational achievements, friends, contacts and their hope to set up business in the UK. I am satisfied that there was no evidence relied on (or been produced before this Tribunal) to establish any Article 8 case nor that Article 8 is engaged. The only material before the Tribunal related to the application under the Immigration Rules. The appellants entered the UK in 2009 and remained as students and their applications for further leave have not been successful. They have lived for a short period of time in the UK and any equivalent private life can easily be established in Pakistan on return. Accordingly I dismiss the appeal and the determination shall stand.

**Notice of Decision**

The appeal is dismissed.

No anonymity direction is made.

Signed

Date 23.1.2015

Deputy Upper Tribunal Judge G A Black

**TO THE RESPONDENT**  
**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 23.1.2015

Deputy Upper Tribunal Judge G A Black