



Upper Tier Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: IA/26535/2014
IA/27303/2014

THE IMMIGRATION ACTS

Heard at Stoke on Trent
On 30 July 2015

Decision and Reasons Promulgated
On 31 July 2015

Before

Deputy Upper Tribunal Judge Pickup

Between

**George Aboagye
Angela Faith Aboagye
[No anonymity direction made]**

Appellants

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellants: Not represented

For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, George Aboagye, date of birth 11.6.77, and his wife, Angal Faith Aboagye, date of birth 3.4.82, are citizens of Ghana.
2. These are their linked appeal against the decision of First-tier Tribunal Judge Ransley promulgated 13.10.14, dismissing their appeals against the decisions of the respondent to refuse their applications made on 27.5.14 for leave to remain in the UK

as a Tier 2 (General) Migrant and dependent family member, pursuant to the Points Based System (PBS) of the Immigration Rules. The Judge heard the appeal on 6.10.14.

3. First-tier Tribunal Judge Shimmin granted permission to appeal on 24.11.14.
4. Thus the matter came before me on 30.7.15 as an appeal in the Upper Tribunal.

Error of Law

5. For the reasons set out below, I find that there was no error of law in the making of the decision of the First-tier Tribunal such as to the determination of Judge Ransley to be set aside.
6. The application was refused because on his Certificate of Sponsorship (COS) the first appellant failed to meet the requirements of Code 2112 of the Code of Practice specified under Appendix J for the minimum acceptable rate of pay for a 39 hour working week, which is £27,000. The COS stated the salary was £25,000 for a 37.5 hour week, which equates to £25,998 for a 39 hour week. In the circumstances, the first appellant was awarded no points under Appendix A for Appropriate Salary.
7. Judge Ransley, dealing with the appeal on the papers found that the appellants did not meet the requirements of the Rules, and noting that article 8 was not relied on, dismissed the appeals.
8. The grounds of appeal complain that the First-tier Tribunal Judge ignored the letter at A39 of the appellant's bundle, dated 1.5.14, stating that the salary had increased to £27,000 with effect from 1.5.14. However, the appellants accepted that this letter was not submitted with the application. By section 85A(4) of the 2002 Act the Tribunal can only consider evidence in a PBS case which is submitted with and at the time of the application. Neither I, nor Judge Ransley, could take the letter into account. Even if the letter itself were to be admitted, the fact remains that the COS did not reflect the new salary level and thus the appeal would still be dismissed.
9. It is unfortunate that in granting permission to appeal Judge Shimmin neglected to consider this very basic evidential provision of the Immigration Rules.
10. In the circumstances, it was inevitable that the application would have been dismissed and inevitable that the appeal to the First-tier Tribunal was doomed from its inception.
11. The only remedy for the appellants is to make a new application with a COS which meets the requirements of Appendices A and J.

Conclusions:

12. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal of each appellant remains dismissed.



Signed

**Deputy Upper Tribunal Judge Pickup
Dated**

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. Given the circumstances, I make no anonymity order.

Fee Award **Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award (rule 23A (costs) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007).

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: The appeals to the Upper Tribunal have been dismissed.



Signed

**Deputy Upper Tribunal Judge Pickup
Dated**