



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

Appeal Number: IA/37202/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 23 December 2014**

**Determination
Promulgated
On 20 January 2015**

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MR MD SARWAR JAHAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Malik, Solicitor MQ Hassan Solicitors

For the Respondent: Miss C Johnstone, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen Bangladesh born on 15 October 1978.
2. The appellant first entered the United Kingdom on 3 March 2009 as a Tier 1 (Post-Study Work) Migrant with a visa expiring on 8 December 2011. On 6 December 2011 he applied for further leave to remain in the United Kingdom in that category. The application was refused on 2 April 2012 on the basis that a false bank statement had been used in the process of the application.

3. An appeal against the decision resulted in a hearing before Immigration Judge Iqbal and a determination dated 28 May 2012. It was noted that the verification report that had been relied upon for that refusal had misquoted the account number. Thus the matter was remitted back to the respondent for reconsideration.
4. On 27 August 2013 the respondent once again refused the application on the basis of a subsequent verification report, which showed the correct account and enquiries still revealed that the bank statement was false.
5. Once again the appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Wiseman on 10 September 2014. The appeal was dismissed.
6. The matter comes before me in pursuance of a grant of permission from a Judge of the First-tier Tribunal on 18 November 2013⁴. Although the grant bears the name of the appellant and the case number, it is entirely clear from reading the content of the permission that it relates to an altogether different case. That refers to somebody who has been trafficked for sexual exploitation which is not this case. Clearly there has been some administrative error in the compilation of the decision which has not been picked up earlier?
7. As both parties are represented before me it is necessary to consider as a preliminary issue whether permission to appeal in this case should have been granted, and if so to deal with the substantive merits of the matter. In that latter context I note the response of the respondent dated 28 November 2014. In fairness to the respondent the mismatching of the contents of the permission with the style and title of the case was highlighted in paragraph 4. Seemingly the matter was not addressed sooner.
8. In essence the challenge made to the decision of the First-tier Tribunal Judge is that the judge was in error in relying upon the verification report, particularly in the context of the appellant's own evidence and that of the letters from the Jamuna Bank that had been provided, including the letter dated 20 August 2014 from the bank confirming that the account existed.
9. Further, that inadequate consideration had been given as to the Article 8 rights of the appellant, particularly given his ties in the United Kingdom by his marriage to Khalida Subhabritsy on 5 March 2010. She has a visa in her own right as a student to be in the United Kingdom until 24 February 2015. A child was born to the relationship on 12 August 2014.
10. A number of documents are enclosed in the appellant's bundle of documents presented for the appeal. In particular there is a statement from the appellant himself dated 26 August 2014. It confirms that the bank account that is named does exist and that he has money in the account. He relies upon the letter from Jamuna Bank Limited dated 20

August 2014 confirming the existence of the account and the amount of money in it. He says that the letter was collected from the bank by his brother.

11. Those matters were set out by the First-tier Tribunal Judge in the determination and it is clear that the appellant attended the hearing and gave oral evidence before the judge. He was questioned about the latest letter from the bank and why it did not in fact carry a seal. It was noted that the original, when produced, showed the identity of the author of the letter as "AKM Nazim Uddin VP and Manager Operations Jamuna Bank Limited Agrabad Brnah Chittagong."
12. The appellant repeated that his brother had been on a holiday in August 2014 in Bangladesh and it was he who had collected the letter and brought it back. The brother gave evidence as to that transaction. He said that he just waited to collect the letter from the bank. He did have an appointment and went to reception for it.
13. The evidence relied upon by the respondent in the refusal letter and at the hearing is the verification report set out at Annex H of the respondent's documents. It bears the correct statement number 0005-0310025047. The author of the report contacted the bank on 10 October 2012 and the bank representative confirmed that the account did not exist. It was also stated that the information held by the bank differed from what was detailed in the documents that were provided in support of the application form.
14. The Judge correctly reminded himself of the importance of applying the appropriate standard and burden of proof particularly as set out in the decision of **RP (Proof of forgery) Nigeria [2006] AIT 00086**.
15. The Judge considered on the one hand the verification report, noting that the respondent has no vested interest in the result of the original application.
16. The judge noted the evidence of the appellant and of his brother and of the various letters from Jamuna Bank Limited. As the judge commented, if the first few letters from the bank had been changed to misstate the nature of the statement then little weight could be given to any subsequent letter obtained by the appellant seeking to confirm the same event.
17. Having considered all matters the judge determined that the second verification check did elicit the correct information to show that the bank account did not exist.
18. In doing so the judge had recognised at paragraph 45 of the determination the practical difficulties which faced the appellant. If it were said that the first letter from the bank was false then in seeking to describe an account

which did not exist it is difficult to understand how that problem can be cured by the sending of further documents. It was important that some mechanism could be put in place by which genuine officials of the bank could be put in contact with the ECO in such circumstance that there could be a proper and open discussion to locate the truth of the matter. It is of some significance that even the more recent letter did not seem to bear the seal of the bank.

19. Although the merits of the matter may be finely balanced as between the appellant and the verification report, nevertheless it was properly open to the judge to prefer the report to the evidence of the appellant for the reasons that have been advanced. I do not find there to be a material error of law in that regard.
20. In that connection it is perhaps unfortunate that the copy of the most recent letter from the bank had very little detail as to its author such that that identity could perhaps have been established and clarified at an earlier stage.
21. As to Article 8, it is to be noted that the appellant, his wife and child are all citizens of Bangladesh and that the wife's leave in the United Kingdom is of short duration. Given that the appellant did not meet the Immigration Rules because of production of false documents and therefore that the deception had been practiced, it was proportionate to expect the appellant to return to Bangladesh. Given that he fails to meet the Immigration Rules there is nothing compelling in the situation and circumstances of himself or his family that would render such return inappropriate or disproportionate.
22. I do not find an error of law in the determination in this case. In the circumstances permission to appeal is not granted. In the alternative the appeal is dismissed in both respects both under the Immigration Rules and in respect of Article 8 of the ECHR.

Signed

Date **16 January 2015**

Upper Tribunal Judge King TD