



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

Appeal Number: HU/07301/2016
HU/00231/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 1 December 2017**

**Decision and Reasons
Promulgated
On 13th December 2017**

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

**MUZAFFAR NASRULLAH
AFIFA IJAZ
(ANONYMITY ORDER NOT MADE)**

Appellant

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT
For the Entry Clearance Officer**

Respondent

Representation:

For the Appellant: Mr A Khan of Counsel instructed by Thompson and Co Solicitors

For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants are siblings who seek to challenge the determination of First-tier Tribunal Judge Housego dismissing their joint appeals by way of a determination promulgated on 12 June 2017 following a hearing at Hatton Cross on 28 June 2017. They are Pakistani nationals born respectively on 25 May 1994 and 3 February 1997. They appeal the decisions of the respondent to refuse entry clearance for family reunion under paragraph 352A-F and on article 8 grounds on 15 February 2016 (for the first appellant) and 22 November 2016 (for the second). The first decision was reviewed by the Entry Clearance Manager but maintained on 10 June 2016.
2. The appellants' father, the sponsor, was granted asylum on the basis of his Ahmadi faith in November 2015. The family, consisting of the appellants, their younger brother and their mother, then made an application on 13 January 2016 to join him. The applications of the mother and youngest son were granted and they subsequently joined the sponsor. The appellants were both over the age of 18 when their applications were made. They were both refused entry clearance.
3. Permission to appeal was refused on 27 July 2017 by First-tier Tribunal Judge Pickup but granted on renewal by Upper Tribunal Judge Smith on 26 September 2017 on the basis that it was arguable that the judge had failed to consider the discrimination against Ahmadis in Pakistan as part of the article 8 assessment and that he had not expanded on what he claimed were credibility issues.
4. The matter then came before me on 1 December 2017.
5. **The Hearing**
6. The sponsor attended the hearing and I heard submissions from the parties.
7. An interpreter had been booked for the hearing presumably at the request of the appellants' solicitors. Counsel could not explain why this step had been taken as no oral evidence was to be called and the services of the solicitors were dispensed with. I would remind Thompson and Co to be more careful with such requests in the future so as to avoid unnecessary court costs and interpreters' wasted time.
8. Mr Khan submitted that the two adult appellants were part of the sponsor's pre-flight family and although the judge had accepted the genuine affection between them and their parents and brother, he had failed to resolve the issues of dependency, whether they were part of the sponsor's pre-flight family unit, whether they were vulnerable due to their religious affiliation and whether there was an absence of family support in Pakistan. He relied upon the respondent's policy instructions on children over 18 years of age and pointed to the section on exceptional circumstances (at p.19). He

accepted that the facts in both cases were similar. He sought a de novo hearing before the First-tier Tribunal.

9. Mr Tarlow submitted that there were no errors of law in the judge's determination and that the challenge amounted to no more than a disagreement with the findings which were properly made and well reasoned. He submitted that the family relationships had been accepted as had the fact that the appellants lived in the sponsor's house, were students and received financial support from the sponsor. However, these were not factors beyond what would be expected between student children and their parents. He submitted that the guidance in Kugathas and Hesham Ali had been properly applied. He agreed that a de novo hearing would be required if an error of law were to be found.
10. Mr Khan responded. He submitted that if it had been accepted that the appellants were dependent upon the sponsor and that family life had been disturbed then article 8 was engaged. He reiterated that the judge had raised a problem with credibility issues in his determination but then failed to explain what those were.
11. That completed submissions. At the conclusion of the hearing, I reserved my determination which I now give.

12. Conclusions

13. I have taken full account of the evidence before me and the submissions made.
14. More than half of the judge's determination consists of a self-direction on the law and the jurisprudence. Much of the rest is taken up with a summary of the respondent's case, the appellant's case and the submissions made by the appellants' representative, there being no appearance by the respondent. This leaves just over a page for the findings and conclusions which are presented succinctly although this is not necessarily a problem.
15. The judge finds that the appellants are related as claimed to the sponsor, that they have the necessary medical certificates, that they are students who receive financial support from their father, that they keep in touch with the family, that they live in their father's house and that they have encountered routine discrimination on account of their faith. However, he also mysteriously finds that "*there are credibility issues with the evidence given*" but fails entirely to expand on what these are and what he makes of them. It is incumbent upon a judge to give reasons for his findings and conclusions; AK Turkey [2004] UKIAT 00230 and MK (duty to give reasons) Pakistan [2013] UKUT 00641 (IAC). The appellants, when reading this part of the determination, will be completely in the dark as to what issues the

judge was referring to. On that basis alone, the determination is flawed and must be set aside.

16. I am less persuaded that there are errors in the judge's consideration of the policy and article 8. The findings in this respect are more detailed (at 57-61) but given the judge's reference to credibility issues, I cannot be sure that these findings have not been infected with whatever adverse view he has formed of the appellants. I therefore set aside the entire determination (except as a record of proceedings). No findings are preserved. The decision shall be re-made by another judge of the First-tier Tribunal at a date to be arranged.
17. **Decision**
18. **The First-tier Tribunal judge made errors of law such that the decision is set aside. It shall be re-made by another judge of the First-tier Tribunal at a date to be arranged.**
19. **Anonymity**
20. No request was made to continue the anonymity order made by the judge of his own volition and I see no reason to do so.

Signed



Upper Tribunal Judge
Date: 8 December 2017