



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/01157/2017

THE IMMIGRATION ACTS

Heard at Field House
On 4 June 2018

Decision & Reasons Promulgated
On 21 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ESHUN

Between

MR RAM BAHADUR GURUNG
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER, NEW DELHI

Respondent

Representation:

For the Appellant: Mr R Jesurum, Counsel, instructed by Everest Law Solicitors (19-20 Chambers)
For the Respondent: Ms Z Ahmad, Home Office Presenting Officer

DECISION ON ERROR OF LAW

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Geraint Jones QC dismissing his appeal against the decision of the Entry

Clearance Officer to refuse him entry clearance to the UK for settlement as the spouse of Mrs Pratima Ghale.

2. The ECO was not satisfied that the appellant had provided all of the specified documents. Specifically, he noted that there was an absence of the personal bank statements for the same twelve month period as the tax returns showing that the income from the self-employment had been paid into an account in the name of the person. With the documents that had been submitted, the ECO was unable to verify the sponsor's employment and income as claimed. The ECO was therefore not satisfied that the sponsor was able to meet the financial requirements of the Immigration Rules.
3. The ECO was not satisfied also that the application raised any exceptional circumstances consistent with the right to respect for family life contained in Article 8 of the ECHR to warrant consideration of a grant of entry clearance to the appellant to come to the United Kingdom outside the requirements of the Immigration Rules.
4. The judge stated at paragraph 14 of the decision that he was provided with an appellant's bundle, but during the course of the hearing (including closing submissions) he was not referred to any of the documents contained therein, except for those at A23 and A47, being documents relevant to Mrs Ghale's self-assessment tax returns which were said to be relevant to demonstrate that she works and is in receipt of income which is disclosed to HMRC. The judge made no other finding on this issue.
5. Both parties agreed that the judge erred in law in his failure to examine the financial evidence submitted by the sponsor in support of the appellant's appeal.
6. I also agreed with Mr Jesurum's submissions that the judge's decision in respect of the appellant's Article 8 appeal was speculative, grossly unfair and full of insinuations about the relationship.
7. Accordingly, the judge's decision cannot stand. It is set aside in order to be remade. The appellant's appeal is transferred to Taylor House hearing centre for rehearing by a judge other than First-tier Tribunal Judge Geraint Jones QC.

Notice of Decision

The appellant's appeal is remitted to be heard afresh.

No anonymity direction is made.

Signed

Date: 13 June 2018

Deputy Upper Tribunal Judge Eshun