



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/27018/2016

THE IMMIGRATION ACTS

Heard at Field House
On 14th August 2018

Determination Promulgated
On 16th August 2018

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

KARANVIR SINGH
(ANONYMITY ORDER NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Fletcher, of Counsel, instructed by Marks & Marks Solicitors
For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant is a citizen of India born on 20th March 1992. He entered the UK as a visitor in June 2005, when he was 13 years old. He made an application to extend his leave to remain in September 2005, but this was refused in 2006. In 2012 he made a human rights application which was refused. He asked that this refusal be reconsidered, but the refusal was upheld in November 2014. He made an application to remain outside of the Immigration Rules which was refused in February 2015. He was not given a right of appeal in respect of any of these decisions.

2. On 23rd November 2016 the appellant made a human rights application, which was refused, this time with a right of appeal, in a decision of the respondent dated 29th November 2016. His appeal against the decision was dismissed by First-tier Tribunal Judge K Swinnerton in a determination promulgated on the 19th March 2018.
3. Permission to appeal was granted by Judge of the First-tier Tribunal PJM Hollingworth on 22nd June 2018 on the basis that it was arguable that the First-tier judge had erred in law in failing to consider the appeal outside of the Immigration Rules on Article 8 ECHR grounds when arguably there were compelling circumstances which required such a consideration, particularly as the appellant had come to the UK when he was 13 years of age.
4. The matter came before me to determine whether the First-tier Tribunal had erred in law.

Submissions – Error of Law

5. The grounds of appeal contend in very general terms that the decision fails to make a Razgar five step analysis of the Article 8 ECHR appeal outside of the Immigration Rules. Ms Fletcher suggested that the First-tier Tribunal had not “balanced” the case properly and that some of the findings, for instance with respect to the possibility of the appellant obtaining support from his sister, were speculative. She argued that the long residence of the appellant since he was thirteen years old ought to have led to the appeal succeeding.

Conclusions – Error of Law

6. I find that the decision of the First-tier Tribunal contains no material error of law as no factual matter was identified by the appellant that was not considered in the Article 8 ECHR decision under the Immigration Rules in the consideration as to whether under whether there would be very significant obstacles to integration for the appellant on his return to India and thus whether he could meet the requirements of paragraph 276ADE (1)(vi) of the private life Immigration Rules.
7. The First-tier Tribunal starts the findings section at paragraph 16 by recording the fact that the appellant entered the UK in 2005 as a 13 year old and has lived in this country ever since. The long residence of the appellant in the UK, from the time he was a 13 year old child, was therefore foremost in the mind of the judge when making the decision. There is then detailed consideration of the appellant’s educational achievements, his family and friends in the UK, his married sister in India, and his ability in Punjabi. There is no evidence that any material factor was not brought into consideration. The finding that the appellant has a married sister in India with whom he has contact was based on his own oral evidence to the First-tier Tribunal, and rational reasons are given for finding that there was no evidence she would not be able to offer the appellant some support on his return. The finding that he has ability in Punjabi was based on his having a GCSE in that subject, and the finding that he has a level 5 HND BTEC in electrical and electronic engineering based on his educational certificates, although it was accepted that he might have

to find employment outside this area and this was considered to be reasonable given his ability to obtain various job offers in the UK.

8. The conclusion that the appellant could not meet the very significant obstacles test required under paragraph 276ADE(1)(vi) of the Immigration Rules is well reasoned and supported by the facts of the appellant's case. The appellant has identified no material factual matters which were not considered by the First-tier Tribunal and which required further consideration in an Article 8 ECHR appeal outside of the Immigration Rules. If the appeal had been considered in that way weight would have had to be given against the appellant being allowed to remain as weight must be given to the public interest in maintaining immigration control, in accordance with s.117B(1) of the Nationality, Immigration and Asylum Act 2002, and little weight could have been given to his private life ties with the UK over the past 13 years as all of these have been established whilst he has been precariously and unlawfully present, applying s.117B(4) and (5) of the Nationality, Immigration and Asylum Act 2002. His good standard of English and his likely ability to be able to support himself financially could only be neutral matters, and there was nothing further to balance in his favour, and thus the outcome of such a consideration on general Article 8 ECHR grounds would inevitably have been that the appeal would have been dismissed as it was by reference to the Article 8 ECHR Immigration Rules.

Decision:

1. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
2. I uphold the decision of the First-tier Tribunal dismissing the human rights appeal.

Signed: *Fiona Lindsley*
Upper Tribunal Judge Lindsley

Date: 14th August 2018