



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

Appeal Number: EA/03196/2020

THE IMMIGRATION ACTS

**Heard at George House, Edinburgh
On the 02 February 2022**

**Decision & Reasons Promulgated
On the 28 February 2022**

Before

UT JUDGE MACLEMAN

Between

SAIRA LATIF

Appellant

and

ENTRY CLEARANCE OFFICER, Pakistan

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by RH & Co, Solicitors
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge Buchanan dismissed the appellant's appeal by a decision promulgated on 8 June 2021.
2. The appellant applied for permission to appeal to the UT, advancing 3 grounds, in summary, as follows:

[1] in seeking evidence beyond the "vast amount " presented by the appellant, the Judge "applied a very high evidential threshold, going beyond the 'balance of probabilities';

[2] in querying specified aspects of the evidence, the Judge raised concerns which might have been resolved if raised at the hearing, and so "acted irrationally and / or ... in an unfair manner"; and

[3] factual error, in that the Judge thought the sponsor had 3 dependents in the UK, whereas the evidence was that his 2 sons are self-sufficient, and contributors to the household.

3. On 20 August 2021, FtT Judge Neville granted permission, on the view that ground 2 might disclose procedural unfairness, but not restricting the grant.

4. On 24 September 2021, the SSHD responded in terms of rule 24, in summary, as follows:
 - [1] amounts to saying that the evidence was so strong that the appeal could rationally have been allowed, which goes too far;
 - [2] the Judge analysed the evidence and gave cogent reasons; the appellant has not said what any explanations might be;
 - [3] if there was any error of fact, it was immaterial “given the central failure of the appellant’s case was failing to establish essential needs in context of shared habitation with close family members who themselves have sources income independent from those of the sponsor – see [36, 43-56] of the decision”.
5. The appellant has recently produced a third inventory of productions, including a supplementary statement from the sponsor, an expert report, and other evidence designed to meet the points in the FtT’s decision. Mr Diwnycz did not object to reference to those items.
6. Mr Winter, sensibly, advanced the grounds in terms of procedural fairness rather than of elevating the standard of proof, or irrationality.
7. The two main aspects of the evidence were (i) the sponsor’s household finances, going to the reality of his ability to send support to the appellant, and (ii) her situation, socially and economically, living with her paternal grandparents in Pakistan.
8. On the sponsor’s finances, Mr Winter submitted that all that had to be shown was the reality of support sent, for which purpose consistently solvent bank accounts were enough. He said that the appellant could not reasonably have anticipated that further detailed explanations of income and expenditure would be required.
9. The most obvious point in this context is that the Judge fell into an error in taking the sponsor’s two adult sons to be dependents rather than contributors in the household; but on reference to the underlying evidence, the matter is not as clear as the grounds purport. The sponsor’s statement is silent on whether his sons are contributors or recipients. It is a matter which might readily have been cleared up at the hearing. It is perhaps surprising that neither party posed such an obvious question. The sons may well not have been, in fact, a net drain on resources; but the appellant left the Judge with nothing to steer him away from that impression.
10. Beyond that, there is some merit in the submission that the appellant did not have to show the intricacies of her sponsor’s financial position, only that his support was real. However, she presented the Judge with evidence from which obvious questions arose, offering no answers. If she had supplied a straightforward summary of the income and outgoings of the UK household, different findings might have been reached; but that is a shortcoming in her case, rather than an error of law by the Judge.
11. The grounds complain about the Judge saying at [37] that he had no information about the appellant’s expenses or needs in Pakistan, or the regular costs of the household in which she lived. Those were obvious and crucial matters. The Judge’s observation that he had no information is not disputed. This was at the heart of the case, clearly raised by the ECO’s decision, and not an issue on which the appellant can say she was unfairly taken by surprise.

12. The Judge's conclusion at [6] was that the appellant had not persuaded him "on the balance of probabilities that as at the date of the hearing she needs the material support of her father to meet her essential needs". Returning to the specific complaints in the grounds, I find that the Judge did not go wrong on the elementary matter of the standard of proof, and in no way acted irrationally. There may have been a factual slip over whether the sponsor's sons were dependents, but that did not go so far as the grounds suggest. Beyond that, the Judge analysed the evidence closely but accurately. The appellant may have some answers in her third inventory of productions; but that does more to confirm shortcomings in the case presented than to show error by the Judge on the case before him.
13. Mr Winter took all that could reasonably be taken from the grounds; but there was no unfairness going to the central failure in the appellant's case, on which the ECO's response is well made.
14. (The following points which arose in course of submissions are incidental to this decision, but may have some future relevance - (i) the appellant has not said whether or why she is unable to make any contribution to supporting herself; (ii) the UT is not concerned with any future proceedings, but the present case is not determinative for all time; and (iii) if the appellant has a case to present, her remedy lies in a fresh fully supported application, not in criticism of the FtT.)
15. The decision of the FtT stands.
16. No anonymity direction has been requested or made.



3 February 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.