



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

Appeal Numbers:  
UI-2022-002683, UI-2022-002684 & UI-2022-002685  
(EA/07630/2021, EA/11970/2021 & EA/11971/2021)

**THE IMMIGRATION ACTS**

**Heard at: Field House  
On : 7 October 2022**

**Decision & Reasons Promulgated  
On : 23 November 2022**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE  
DEPUTY UPPER TRIBUNAL JUDGE HANBURY**

**Between**

**SHAHJAHAN NASEEM  
MUHAMMAD NASEEM  
MARYAM NASEEM**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Z Malik KC, instructed by ATM Law Solicitors  
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellants are nationals of Pakistan, and are a mother, father and their child. They appeal, with permission, against the decision of the First-tier Tribunal dismissing their appeals against the respondent's decision to refuse to issue them with EEA family permits to enter the UK as the extended family members of an EEA national under the Immigration (European Economic Area) Regulations 2016.

2. The appellants applied for EEA family permits on 22 December 2020 to join the first appellant's brother, an Italian national who was exercising treaty rights in the UK. The respondent refused the appellants' applications on 14 April 2021 as it was not accepted that they were related as claimed to the sponsor or that they were extended family members in accordance with regulation 8(2) of the EEA Regulations. The respondent was not satisfied that the appellants were dependent upon the sponsor since the evidence of financial remittances was sporadic and was dated immediately prior to the applications being made, and there was no evidence that they had ever been members of the sponsor's household.

3. The appellants appealed against that decision and their appeals came before First-tier Tribunal Judge Wilding on 10 January 2022. The judge heard from the sponsor, Khalid Saleem. The judge considered the sponsor to be a generally credible witness and accepted that he was related to the appellants as claimed, namely his sister, brother-in-law and niece. The judge accepted that the sponsor sent money to the appellants in Pakistan as claimed. However, the judge did not accept that the evidence showed continuing dependency since 2017, finding that that impacted on the question of current dependency as there was no explanation for their sudden dependence from October 2020. He found there to be no satisfactory evidence of the appellants' financial position prior to October 2020 and found the evidence to be inconsistent in regard to the claim that the second appellant cared for the first appellant and had returned from working in Saudi Arabia to do so and was therefore not working. He found there to be no evidence that the second appellant had worked in Saudi Arabia until 2017, that he was living there until 2017 or that he had returned to Pakistan in 2017. He concluded that the appellants' claimed dependency had not been made out, either historically since 2017 or from 2020, and that they had failed to show that the requirements of Regulation 8 were met.

4. The appellants sought permission to appeal to the Upper Tribunal on two main grounds: firstly, that the judge had failed to engage with materially relevant evidence, namely evidence of the second appellant's residence in Saudi Arabia and return to Pakistan; and secondly, that the judge's approach to the sponsor's evidence was erroneous since he should have given weight to the sponsor's evidence about the appellants' income and circumstances.

5. Permission was granted by the First-tier Tribunal and the matter then came before us. Both parties made submissions.

6. Mr Malik submitted, for the first ground, that the judge had failed to take account of the evidence of the sponsor's entry and exit to Saudi Arabia/Pakistan and his visa for Saudi Arabia and that that was a material error because he had, at [26], reached his conclusion by "taking everything in the round" and that therefore formed part of his overall conclusions. For the second ground Mr Malik submitted that, having found the sponsor to be credible and there being no challenge to his credibility, the judge erred by finding against the appellants in relation to dependency because of a lack of corroborating documentary evidence. The sponsor had given evidence that he

had supported the appellants prior to 2020 and, since the judge had accepted the sponsor's evidence as credible, he ought to have accepted that dependency had thereby been established.

7. Mr Kotas submitted, with regard to the first ground, that any error was immaterial as the appellants' application was based upon dependency since 2017 whereas the second appellant's residence in Saudi Arabia was prior to 2017. In any event the passport stamp was only evidence of entry and exit and was not evidence of what the second appellant was doing in Saudi Arabia. As for the second ground, the judge's finding was that he found the sponsor "generally credible". Mr Kotas submitted that it could not be the case that the judge had to accept that the sponsor's evidence was sufficient to fill the gaps in the evidence.

8. In response Mr Malik submitted that the judge's finding, that the sponsor was credible, was not a qualified finding and was sufficient to accept that the appellants were dependent upon him. The judge's failure to consider the evidence of the second appellant's residence in Saudi Arabia was material.

## **Discussion**

9. We find no merit in the first ground. It is asserted that, in making his adverse findings at [24], the judge failed to have regard to the evidence in the appellants' bundle at pages 30 and 31 which supported the account of the second appellant having resided and worked in Saudi Arabia and having then returned to Pakistan in April 2017 to care for his wife, the first appellant. However, there is nothing in the judge's findings at [24] to suggest that he ignored or overlooked that evidence. On the contrary it is clear from [11] of his decision, and indeed from his detailed analysis of the evidence as a whole, that he had regard to all the documentary evidence. The documents at pages 30 and 31 of the appellants' bundle show no more than that the second appellant exited Pakistan on 5 June 2013 and entered Pakistan on 27 April 2017 and that he had a 90-day visa for Saudi Arabia issued on 12 April 2013. As Judge Wilding found at [24], that was not evidence in itself of the second appellant having returned to live in Pakistan in April 2017 after having resided and worked in Saudi Arabia for a number of years up until that date. It is also relevant to consider the judge's findings in that respect in the context of his earlier findings at [22], where he referred to the inconsistent evidence about the first appellant's back problems and the consequential requirement of care from her husband. The judge noted, at [22], that the second appellant's claim to have had back problems requiring her husband to return from Saudi Arabia in 2017 to care for her was inconsistent with the hospital letter dated 19 March 2021 confirming that she had suffered from that condition from October 2020. There were further concerns with the evidence highlighted by the judge at [22] to [24] in the light of which the judge was perfectly entitled to reach the conclusions that he did in those paragraphs.

10. We note that the first ground of appeal was the basis for the grant of permission, albeit that the second ground was not excluded. Mr Malik's focus, however, was on the second ground, but again we find no merit in that ground.

We do not agree with the suggestion that, in finding the sponsor to be “generally a credible witness in his evidence” at [12] and in reiterating the point at [15] and [25], the judge was in error when drawing adverse conclusions from a lack of supporting documentary evidence. The judge had to consider the evidence as a whole and draw his conclusions from the totality of the evidence. That was clearly what he was doing, as is apparent from his conclusion at [26]. Whilst he could perhaps have expressed himself in clearer terms, all he was saying was that there was nothing controversial in the sponsor’s claim to have provided support to the appellants. That was not to say that he was required to accept every aspect of the sponsor’s statement at face value, particularly where there were otherwise discrepancies arising out of the documentary evidence, as we have already discussed above.

11. As is clear from [20] onwards, the judge was particularly concerned about the lack of satisfactory evidence of the appellants’ financial and other circumstances which were matters the appellants, rather than the sponsor, were best placed to address. That was what he was saying at [25]. We find no error in that. At [20] he set out particular concerns about the evidence of the appellants’ expenditure and essential needs and at [21] he found their evidence in their statements to be lacking in detail. At [22] to [24], as discussed above, he found there to be discrepancies in the evidence of their circumstances which undermined their claim as to the extent of any historic dependence and which, in turn, impacted on the credibility of their assertions as to present dependency. All of these were matters from which the judge was fully and properly entitled to draw adverse conclusions when considering the totality of the evidence before him. We do not consider that the judge’s acceptance of the sponsor as a generally credible witness in any way required him to ignore those concerns or to consider them otherwise satisfactorily resolved.

12. Accordingly, we do not find the grounds of challenge to be made out. Judge Wilding was entitled to dismiss the appeal on the basis that he did. His decision contains no errors of law and is accordingly upheld.

## **DECISION**

13. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. We do not set aside the decision. The decision to dismiss the appeal stands.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Dated: 14 October 2022