



IAC-AH-CJ-V1

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

Appeal Number: VA/07319/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 5th February 2016**

**Decision & Reasons Promulgated
On 18th February 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**MRS HAJIEH AHMADINEZHAD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER - ISTANBUL

Respondent

Representation:

For the Appellant: Mr S Walker (HOPO)
For the Respondent: Mr Abolfazl Abdi (Sponsor)

DETERMINATION AND REASONS

1. This is an appeal against the determination of the First-tier Tribunal Judge Shiner, promulgated on 11th August 2015, following a hearing at Taylor House on 10th July 2015. In the determination, the judge allowed the appeal of Hajieh Ahmadinezhad, whereupon the Entry Clearance Officer subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a female citizen of Iran, who was born on 22nd February 1952. She appealed against the decision of the Respondent Entry Clearance Officer, dated 10th November 2014, refusing her application for a visit visa, in order to visit her daughter, settled in the UK.

The Appellant's Claim

3. The Appellant's claim is that she last visited the UK in 2011 when her daughter gave birth to her first child, and now that a second child was expected, she wanted to come and give assistance to his daughter again, whereupon she would return back to Iran.

The Judge's Findings

4. The judge had regard to the refusal letter and noted that it refers to the Appellant as declaring that she was retired with a pension of £200 per month, and there had been a payment of £202 in September. The refusal letter acknowledged that the Appellant claimed to receive other monies from family and friends. A bank statement was to the effect, as noted by the ECO, that there were deposits of £6,269 into the Appellant's account in August 2014. The ECO was of the view that this is:

“Nearly 61 times more than the Appellant's disposable monthly income. This, shows so the ECO says, that the Appellant's 'circumstances in Iran coupled with her reasons for wishing to travel to the UK are such that you have shown your intentions are as stated or that you intend to leave the UK at the end of the proposed visit'” (page 2 of the refusal letter).

5. The judge heard submissions from Mr Abolfazl Abdi, the son-in-law of the Appellant, and he pointed out that the sum of £6,269 that the Respondent referred to, “relates not to a bank account held by the Appellant but held by her husband one Abolghasem Rajabi” (paragraph 16). The judge observed that this is the name at the top right hand corner of the bank statement, and the refusal letter acknowledged that the Appellant had said that she had support from others, which led the judge to conclude that, “I accept that the bank statement is the Appellant's husband's. It seems to me that the Appellant's inclusion of her husband's bank statement is therefore consistent with her claim of obtaining financial support from others” (paragraph 16).
6. The judge went on to then note the Appellant's factual circumstances in Iran, whereby she had a husband in Iran (paragraph 18) and that she wanted to travel to be with her daughter when the daughter's second child was born, the first one now being 2 years of age (paragraph 17). The judge then said that he would accept the Appellant's evidence that she intended to stay for a short period (one month), and given that the Appellant had already visited the UK in 2011 before returning to Iran, it was clear that the Respondent had not challenged this and the judge concluded that the Appellant would also now once again return back to Iran.
7. The appeal was allowed under paragraph 41 of HC 395.

8. The grounds of application state that the judge was wrong to have allowed the appeal on the basis that it did because on 25th June 2013, Section 52 of the Crime and Courts Act took effect and this restricted the appeal rights of visitors coming to visit family members to only human rights and race relations grounds.
9. On 16th December 2015, permission to appeal was granted.

Submissions

10. At the hearing before me on 5th February 2016, Mr Walker submitted that the judge went beyond his jurisdiction in allowing the appeal on grounds that were other than those confined to human rights or race relations grounds. He submitted that since 10th June 2013 there were only restricted rights of appeal. I pointed out to Mr Walker that this was an appeal that had been determined under paragraph 41 of HC 395, which was before the coming into effect of the Crime and Courts Act. Mr Walker submitted that that was indeed the case.
11. For his part, Mr Abdi stated that he had one previous child aged 2½ years and they now have a second child who was 14 months old. He submitted that the refusal by the Entry Clearance Officer was in relation to confusion arising from the sum of £6,269, which was actually the amount in the Appellant's husband's bank account, and not a sum that was attributable to the Appellant herself. The judge had gone through the evidence and seen the picture as it was and had allowed the appeal having satisfied himself that the Appellant's circumstances were both as she claimed them to be, and that she would return back to Iran after her visit. He referred to paragraph 12 of the determination.
12. In reply, Mr Walker submitted that he had nothing further to say.

No Error of Law

13. I am satisfied that the making of the decision by the judge does not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision.
14. The reason is that this appeal was determined under paragraph 41 of HC 395. It was not determined under the latest Rule changes that flowed from Section 52 of the Crime and Courts Act. It was open to the judge to determine the facts as he did. His assessment of the facts cannot be faulted.

Notice of Decision

15. There is no material error of law in the original judge's decision. The determination shall stand.
16. No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

13th February 2013