



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

Appeal Number: VA/03058/2015

THE IMMIGRATION ACTS

**Heard at Liverpool
On 28 April 2017**

**Decision & Reasons Promulgated
On 10 May 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

**MISS SHEZA HAMID
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals to the Upper Tribunal from the decision of the First-tier Tribunal dismissing his human rights (Article 8 ECHR) appeal against the decision of an Entry Clearance Officer dated 28 September 2015 to refuse to grant her entry clearance as a family visitor. The First-tier Tribunal did not make an anonymity direction, and I do not consider that such a direction is required for these proceedings in the Upper Tribunal.

The Reasons for the Grant of Permission to Appeal

2. On 20 February 2017 Designated First-tier Tribunal Judge Macdonald gave his reasons for granting the appellant permission to appeal from the decision of Designated Judge McClure, who dismissed the appellant's appeal in a decision promulgated on 17 January 2017:

"The grounds of application are lengthy but essentially say that the Judge's decision was based on speculation as opposed to the actual evidence.

The Judge noted the family unit had a number of problems in seeking to cope with the needs of all the family members which presents certain difficulties (paragraph 28). Looking at all the evidence the Judge found that if the appellant were allowed to come to the United Kingdom she would remain here when it was planned that the appellant would come here to help the sponsor and his family to cope in a very difficult situation.

While the Judge did note the appellant's personal circumstances (paragraph 40) it is arguable that the reasons given are based very much on suspicion of what might occur and that further reasoning is required to justify the conclusion reached. The Judge appears to be accepting that the appellant does wish to visit her father's grave (paragraphs 44-45)."

The Rule 24 Response

3. On 23 February 2017 a member of the Specialist Appeals Team settled a Rule 24 response opposing the appeal. The Judge had performed the task required of him, which was to weigh the evidence available to him and reach a decision on the appellant's Article 8 appeal on the balance of probabilities. The Judge's conclusions are not based on mere speculation but are the result of careful consideration of the facts. The findings are adequately reasoned and justified. The grounds amount to a disagreement with the Judge's findings, which were open to him.

Discussion

4. The appellant is a national of Pakistan, whose date of birth is 5 May 1995. On 28 September 2015 an Entry Clearance Officer (post reference ABDH/1317743) refused her application for a visit visa to undertake a two week visit as he was not satisfied that she met the requirements of subparagraphs (i) and (ii) of paragraph 41 of the Rules. In particular, he was not satisfied that she had accurately set out her circumstances in Pakistan, including the financial resources available to her and her mother. She had declared herself to be single, with no one dependent upon her. She had no verified income or assets of her own. So he considered that she had little in the way of ties to Pakistan to give her an incentive to leave the United Kingdom. Conversely, she stated that her family members in the UK could not visit her in Pakistan because of ill health and her brother's employment in Tesco. Thus, he was not satisfied that only a short visit was intended, or that she would leave the UK at the end of the period stated by her.

5. The hearing of the appeal took place in Manchester on 11 November 2016. The appellant's brother, who was her sponsor, gave oral evidence. He said that he and his wife had last gone to Pakistan in 2010/11. At the time, they had just one child. Since that visit, he and his wife had had further children. Of the four children, two had special needs. They attended a special needs nursery which was 45 minutes away from where the family lived. He had to drop the children off at nursery before going on to his work. His wife suffered from problems with her back. She also suffered from ulcerative colitis and gestational diabetes.
6. In his conclusions, the Judge observed that the current situation in which the sponsor and his wife found themselves must be putting significant pressure on them. He further observed that the needs of the family unit were not going to reduce. As for the appellant, she indicated that she was undertaking studies at university, but she appeared to have failed the last series of exams. She did not have any personal commitments in Pakistan, other than to her mother. The Judge concluded in paragraph [43] that the appellant was intending to remain in the UK to help look after the sponsor's family. He was satisfied that the appellant was not intending to come for a limited period of six months or less, but was intending to come to stay for as long as possible.
7. I consider that the Judge's conclusion is adequately reasoned. Neither the sponsor nor the appellant declared that the real plan was for the appellant to stay as long as possible to help look after the sponsor's family. However, this was an inference that it was reasonably open to the Judge to draw, having regard to the evidence which he had received. The forensic difficulty for the appellant was that the evidence put forward to demonstrate the compassionate circumstances surrounding her proposed visit was very unhelpful to her case in allaying the concern raised by the Entry Clearance Officer as to the reliability of her declared intention only to make a short visit. It was open to the Judge to find, as he did, that the appellant, who had far less pressing commitments in Pakistan, was likely to give priority to remaining in the UK to help to look after the sponsor's family in what was in essence a long-term family crisis, taking on essential chores and tasks that the sponsor's wife would normally do herself if she was not incapacitated by ill-health. As this was a highly foreseeable outcome from the appellant's perspective, given the compassionate circumstances of her UK sponsor's family outlined in the evidence and the relative weakness of her ties to Pakistan - especially in terms of familial dependency (her mother in Pakistan was not dependent on her) - it was open to the Judge to infer that it was an outcome which the appellant intended, so that she was not a genuine visitor.

Notice of Decision

The decision of the First-tier Tribunal did not contain an error of law, and accordingly the decision stands. This appeal to the Upper Tribunal is dismissed.

No anonymity direction is made.

Signed

Date 9 May 2017

Judge Monson

Deputy Upper Tribunal Judge