



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

Appeal Number: IA/02357/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 4 July 2013**

**Decision Sent
On 31 July 2013**

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Before

**UPPER TRIBUNAL JUDGE CRAIG
DEPUTY UPPER TRIBUNAL JUDGE APPEYARD**

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR TANVEER AHMAD
(NO ANONYMITY ORDER MADE)**

Respondent

Representation:

For the Appellant: Mr P Deller, Home Office Presenting Officer
For the Respondent: No appearance

DECISION AND DIRECTION

1. The appellant in this case is the Secretary of State for the Home Department. However, for the sake of clarity, we shall use the titles by which the parties were known before the First-tier Tribunal, with the Secretary of State referred to as “the respondent” and Mr Ahmad as “the appellant”.
2. No anonymity order has been made hitherto in these proceedings and there is no material before us to suggest that one is required.

3. The appellant is a citizen of Pakistan. He appealed to the First-tier Tribunal against a decision of the respondent for leave to remain in the United Kingdom as a Tier 1 (General) Migrant under the points-based system and for a biometric residence card.
4. Judge of the First-tier Tribunal Khawar allowed the appellant's appeal. The respondent decided that the appellant should be awarded 0 points for his previous earnings and as a consequence 0 points for his United Kingdom experience.
5. Having considered the totality of the evidence the judge found at paragraphs 16 to 18 of his determination that the appellant had provided the respondent with his application all corroborative evidence (and in particular a dividend voucher) showing that the appellant did in fact have the required funds.
6. The grounds seeking permission to appeal assert that the judge erred in law in having regard to evidence excluded from proper contemplation and in failing to properly consider the issue surrounding the possible application of any relevant evidential flexibility policy.
7. We drew Mr Deller's attention to paragraphs 16 to 18 of the judge's determination and on closer consideration he accepted that the judge had made a finding that was open to him to be made that the appellant had supported his application with all necessary corroborative material to show that he should have been awarded the appropriate points for both previous earnings and United Kingdom experience. That being the position Mr Deller accepted that the issue of evidential flexibility no longer had any bearing on this appeal.
8. We share Mr Deller's revised assessment of this determination. On our analysis of the judge's determination there is no material error of law whatsoever.
9. As there is no error of law in the First-tier Tribunal's determination we accordingly order that it shall stand.

Signed

Dated: 9 July 2013

Deputy Upper Tribunal Judge Appleyard