



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

Appeal Number: VA/29110/2012

THE IMMIGRATION ACTS

**Heard at Field House
On 19 June 2013**

**Oral Determination
Promulgated
On 27 June 2013**

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

ENTRY CLEARANCE OFFICER - NEW DELHI

Appellant

and

PARUL GUPTA

Respondent

Representation:

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

DETERMINATION AND REASONS

1. The appellant in this appeal is the Entry Clearance Officer in New Delhi who appeals against the decision of First-tier Tribunal Judge P J M Hollingworth, promulgated on 26 April 2013, in which he allowed the appeal of Miss Parul Gupta and allowed her appeal against the decision made by the Entry Clearance Officer to refuse her entry clearance as a

visitor. For the sake of continuity I shall refer to Miss Gupta as 'the appellant', as she was in the First-tier Tribunal. The issue before the judge was whether or not the appellant had an intention to return at the conclusion of her visit.

2. At the hearing before the judge the sponsor attended and gave evidence. He said that he was the appellant's father and that he was currently permitted to remain in the United Kingdom for three years as the manager of a bank and that he treated himself as having the responsibility of ensuring that his daughter returned to India at the conclusion of the visit. He gave evidence to the judge that until she is married he considered that the appellant was his responsibility and that he was in a position to determine that she would go back. He described how she was living in India with other family members and that she was employed there although the employment had only commenced on 1 June 2012.
3. The representative for the Entry Clearance Officer relied on the refusal decision and that on 18 May 2012, when she made the application, the appellant was unemployed. She had started work only on the date of decision, that is, 1 June 2012. Nevertheless it was accepted that the evidence that she was in employment was admissible although it appears it was not necessarily a long-term job. The appellant had previously applied to remain in the United Kingdom during a period when her parents had obtained leave and had been refused that application.
4. Those submissions were the subject of an answer by the sponsor who repeated his assertion that his daughter, the appellant, was very much his responsibility and he gave the judge an assurance that she would go back in circumstances where it was clearly implied that he, her father, exercised a degree of influence upon her such as to enable him to say with some certainty that she would return at the conclusion of her visit. He described how his wife would accompany his daughter on the visit and how his wife had previously come for a period of three weeks.
5. At the conclusion of the evidence the judge accepted the evidence given by the sponsor. He accepted that the appellant was then employed. He accepted the explanation given by the sponsor in relation to the intentions of both his daughter and his wife. It was agreed by the respondent that the evidence of employment was admissible. In those circumstances the application had to be assessed by reference to the firm evidence given by the sponsor that he exercised a degree of control over his daughter, the appellant, that she had a home in India, that she had a job in India and that her mother would accompany her and that there would be no cessation of ties with India by reason of this trip. It is to be noted that the sponsor himself is only on temporary leave to remain in the United Kingdom. There is no suggestion therefore that the family home and links with India will be permanently severed. Be that as it may, at the conclusion of the hearing the judge accepted the evidence of the sponsor and found as a fact that the appellant would return on the basis of those factors identified by the sponsor.

6. That was a matter which was open to the judge as the one responsible for making findings of fact. The reasons that he gave were clear and precise.
7. The grounds of appeal say that the judge should not have reached that decision and should have concentrated on the intentions of the appellant herself. However it was not the appellant who was able to give evidence to the judge and in any event, in the circumstances of this particular case, the judge accepted the evidence of the sponsor that he was in a position to exercise influence upon the appellant. If the judge accepted both that he was able to exercise influence and that it was his settled intention that she should return at the end of the visit, there was no reason why that intention should not be implied to the appellant herself.
8. There is no error of law in this determination.

DECISION

The First-tier Tribunal Judge made no error on a point of law and the original determination of the appeal shall stand.

ANDREW JORDAN,
UPPER TRIBUNAL JUDGE