



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal no: IA 27121-13

**THE IMMIGRATION ACTS**

At **Field House**  
on **31.03.2014**

Decision signed: **31.03.2014**  
sent out: **03.04.2014**

Before:

Upper Tribunal Judge  
**John FREEMAN**

Between:

**SAIRA PARVEZ**

appellant

and

**Secretary of State for the Home Department**

respondent

Representation:

For the appellant: Mr Liam Doyle (trainee solicitor, M & K, Luton)  
For the respondent: Mr D Mills

**DETERMINATION AND REASONS**

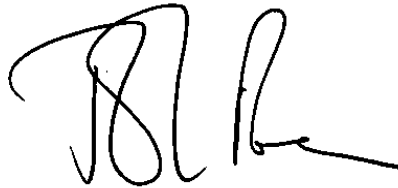
This is an appeal, by the respondent to the original appeal, against the decision of the First-tier Tribunal (Judge Michael Gillespie), sitting at Hatton Cross on 17 January, to allow a wife's appeal by a citizen of Pakistan, born 7 February 1987, against refusal of limited leave to remain in this country as the spouse of a person present and settled here.

2. The judge was satisfied that this was a genuine and 'subsisting' (to use the peculiar language of the Immigration Rules) marriage, and nothing more turns directly on his findings about that. The other issue set out in the part of the refusal letter dealing with the position under the Rules was whether the appellant and the sponsor intended to live together permanently.

3. Normally this would follow on naturally from a conclusion that the marriage was genuine; but by the date of the hearing the sponsor was working as an expatriate teacher in Saudi Arabia. Though the judge posed the right question, as to the ‘connubial intentions’ of the parties at paragraph 5, he did not answer it at paragraph 8. Mr Doyle realistically accepted that, in a case involving a sponsor who had only returned to this country for the purpose of the appeal hearing, and despite the finding on the genuineness of the marriage, this was a live issue which needed to be decided. The reason is that the Rules are not intended to let people keep their dependent relatives here while they work abroad, but to let them have them with them when they are living here. The result is that the ‘connubial intentions’ point still has to be decided.
4. In answer to a question from me, Mr Mills made it clear that he would not argue that any absence of a husband, even overseas, would negate any intention to live with his wife permanently in this country. He was content for the case to be decided on the basis that, if the sponsor really was in Saudi Arabia on a fixed-term contract which he did not intend to renew, then that would not stop him and the appellant from having the necessary intentions.
5. In those circumstances, Mr Doyle was content for me to decide the ‘connubial intentions’ point for myself on the material before me, without taking further oral evidence. Neither Mr Mills nor he had anything to add to what is set out respectively in their grounds of appeal and reply. There is no documentary evidence about the sponsor’s contract of employment; but he says at paragraph 9 of his witness statement, signed 13 January 2014, that he started working in Saudi Arabia in September 2013, and “This is a temporary contract job for a year”: he is currently expected back at the end of June, which would fit the academic year, at least as used in this country.
6. The judge’s reasons on the genuineness of the parties’ marriage were entirely satisfactory, and in my view it is inconceivable that this highly experienced judge would not also have accepted the sponsor’s evidence on their intentions about where they would live in the longer-term future, if he had given his mind to the need for deciding that as a separate issue. That means this point is decided in the appellant’s favour, and her appeal is allowed.
7. Mr Mills told me this would result in a grant of two years’ leave to remain to the appellant, when and if my decision became final. That means she will need to apply for indefinite leave to remain before that period expires: while, according to Mr Mills, that application (following on the present one, made 5 July 2012) will be decided on the Rules as they stood before the 9<sup>th</sup>, it will also have to be decided on the facts as they stand then.

8. If it turned out that the judge and I were wrong, and the sponsor simply intended to leave the appellant here with his family in this country, while he went on working in Saudi Arabia, then the result would most likely go against them.

**Home Office appeal allowed: decision re-made in part**  
**Appellant's appeal allowed**

A handwritten signature in black ink, consisting of stylized, cursive letters that appear to be 'JBL' followed by a horizontal line.

(a judge of the Upper Tribunal)