



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

Appeal Number: OA/03499/2013

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 8 January 2014**

**Determination  
Promulgated  
On 23 January 2014**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**JAVERIA TARIQ**

Appellant

**and**

**ENTRY CLEARANCE OFFICER - ISLAMABAD**

Respondent

**Representation:**

For the Appellant: Ms G Patel, instructed by Axiom Solicitors Ltd  
For the Respondent: Mr M Diwnycz

**DETERMINATION AND REASONS**

1. The appellant, Javeria Tariq, was born on 13 November 1987 and is a citizen of Pakistan. The appellant had appealed to the First-tier Tribunal (Judge Obhi) against a decision of the Entry Clearance Officer, Islamabad to refuse her application for settlement in the United Kingdom as the spouse of Naser Pasha (hereafter referred to as the sponsor). The First-

tier Tribunal dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I find that this appeal should be allowed. The only issue raised by the ECO related to the ability of the couple to maintain themselves in the United Kingdom without recourse to public funds (paragraph 281(v) of HC 395). The judge (perhaps because he was dealing with the appeal on the papers and heard no live submissions) incorrectly assumed that the application fell to be considered under the current Immigration Rules; in fact, the application predated the coming into force of the amendment to the Rules and, therefore, the “old” paragraph 281 applied. The judge’s error is such that I set aside the determination and have remade the decision. Mr Diwnycz, for the respondent, did not dispute that the figures of income set out at [9] of Ms Patel’s grounds of appeal were other than accurate. It is clear from those figures that the sponsor has a sufficient income (both from work and from disability benefit) to support himself and the appellant without the couple needing to have recourse to any public funds. It follows that the appellant is able to satisfy each of the requirements of paragraph 281 and her appeal in respect of the Immigration Rules is allowed.

### **DECISION**

3. The determination of the First-tier Tribunal which was promulgated on 18 October 2013 is set aside. I have remade the decision. This appeal in respect of the Immigration Rules is allowed.

Signed

Date 16 January 2014

Upper Tribunal Judge Clive Lane