



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: VA/06308/2013

THE IMMIGRATION ACTS

Heard at Birmingham
On 6 June 2014
Prepared 6 June 2014

Determination Promulgated
On 24 June 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MR SARDAR AFZAL
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Appearances:

For the Appellant: Mr T Muman, Counsel
For the Respondent: Mr Smart, Senior Presenting Officer

DETERMINATION AND REASONS

1. The Appellant, a national of Pakistan, appealed against the Respondent's decision dated 20 February 2013 to refuse entry clearance as a family visitor with reference to

paragraph 41 and paragraph 320(7A) of the Immigration Rules HC 395 as amended. The appeal against that decision came before First-tier Tribunal Judge Shanahan (the judge) who dismissed the appeal. Permission to appeal that decision was given by First-tier Tribunal P J G White on 28 March 2014.

2. With reference to paragraph 41 of the Rules the judge was not satisfied the Appellant's intentions were as claimed for the purposes of a short family visit and no appeal was made against the judge's decision in respect of the Appellant's failing to meet the requirements of paragraph 41 of the Rules.
3. At the heart of the original refusal was the fact that the Appellant's passport showed an entry stamp into the United Kingdom on 15 March 2012 and an arrival stamp in Pakistan dated 15 April 2012 yet other evidence showed that the Appellant did not leave the United Kingdom until 11 September 2012. Secondly the Appellant had failed to disclose that on 2 May 2012 he had been refused leave to enter the Irish Republic and that refusal had not been declared. There was produced to the judge the document, which were reservation details which purported to show the Appellant travelling to the United Kingdom to Birmingham International on 15 March 2012 and returning to Pakistan and Islamabad International Airport on 14/15 April 2012.
4. However also provided to the judge was the coupon record in relation to the same tickets which showed that the Appellant had a ticket from Islamabad to Birmingham of 15 March 2012 with an intended departure date of 14 April 2012 for a total price of 52,261 PKR. The second coupon provided shows that the flight for 14 April 2012 was exchanged. The exchange is demonstrated by the switch of dates showing a new departure date from Birmingham International to Islamabad International on 11 September 2012. An additional fee of £40 sterling was paid in cash and a new ticket was issued at Birmingham International.

5. The judge read and understood the particular document, provided by the Appellant and concluded that it was consistent with the Respondent's case that the Appellant had not left as claimed. Therefore the entry stamp of 15 April 2012 was necessarily false and the Appellant had spent significantly longer, in unexplained personal and financial circumstances in the United Kingdom for over five months from his claimed departure date. Thus the appeal was going to fail on the basis of a false stamp come what may. As to the issue of the Appellant's refusal of entry clearance to the Irish Republic documents supporting that matter were not produced but the Respondent provided an explanation which was met by grounds of appeal which argued that he had not used deception or intended to deceive. It was said with reliance upon the case of Farqan Ahmed that he had not been dishonest or deceptive in failing to refer to such refusal in his visa application.
6. Ultimately the judge was not impressed with the explanation being proffered on behalf of the Appellant for there was no explanation in relation to the entry stamp or the omission of the refusal by the Irish Republic.
7. Accordingly the judge found absent proper explanation in any event that the appeal failed in both respects. The position remains that even if the judge was wrong about the issue of the Appellant's non-disclosure of the Irish authorities refusal in May 2012 the fact is on the Appellant's own documentation he could not show anything which could suggest that the stamp dated 15 April 2012 was anything other than even if genuine in origins falsely obtained and inserted into the passport. In these circumstances therefore the appeal was doomed to fail come what may on the Appellant's own evidence.
8. Contrary to the submission made there is no purpose served in sending this matter back for some further explanation about the issue of the non-disclosure of the Irish refusal of entry. It serves no purpose because the appeal was doomed to fail on the issue of his presence in the United Kingdom at a time when he said he was absent.

The original Tribunal made no error of law. The original Tribunal's decision stands.
The appeal against the original Tribunal's decision is dismissed.

ANONYMITY ORDER

No anonymity order is appropriate or necessary.

Signed

Date

Deputy Upper Tribunal Judge Davey