



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

Appeal Number: IA/05545/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 3 March 2015**

**Decision & Reasons
Promulgated
On 27 May 2015**

Before

UPPER TRIBUNAL JUDGE PITT

Between

MOHSAN AFZAL

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Turner, instructed by M-R Solicitors
For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision promulgated on 6 November 2014 of First-tier Tribunal Judge Hunter. The decision of Judge Hunter dismissed the appeal against refusal of leave as a spouse and on Article 8 ECHR grounds.

2. Judge Hunter found for the reasons given at [32] to [35] that the documentary requirements relating to financial information set out in Appendix FM-SE were not met.
3. As a result of the appellant's wife having been born in Pakistan and living there until she was 11 years' old, having a number of uncle and aunts there and having visited the country in recent years, Judge Hunter concluded at [37] that paragraph EX.1 concerning insurmountable obstacles to family life being conducted outside the UK was not met.
4. The requirements of paragraph 276ADE as to private life were not found to be met at [38] where the appellant had been in the UK for only a limited period.
5. At [40] Judge Hunter considered whether a second stage Article 8 assessment was necessary and concluded that it was not where the matters relied upon by the appellant and his wife were covered by the provisions of the Immigration Rules.
6. The written grounds of appeal argued in paragraph 2 that the First-tier Tribunal judge did not make a decision on the Article 8 claim. This ground merely picks a pointless technical argument with the failure to state in terms under "Notice of Decision" at the end of the decision that the Article 8 claim was refused. This ground has no merit where a proper reading of Judge Hunter's decision shows entirely clearly that the Article 8 claim was refused.
7. The grounds at paragraph 3 seem to argue that the appeal should have been allowed under the Immigration Rules as the documentary requirements of Appendix FM-SE were met. Nothing before me showed that to be the case and I found no error in Judge Hunter's decision on this aspect of the appeal.
8. Paragraph 4 of the grounds argues that the judge did not apply the ratio of Razgar [2004] UKHL 27. That challenge is really to the conclusion at [40] that there was no need here to proceed to a second stage Article 8 assessment outside the Immigration Rules.
9. The case of Singh v SSHD [2015] EWCA Civ 74 at paragraph 66(2) states:

"The statement that the decision-maker 'must be in a position to demonstrate' that he or she has given the necessary consideration is simply a reflection of the ordinary obligation to record a material decision. If the decision-maker's view is straightforwardly that all the article 8 issues raised have been addressed in determining the claim under the Rules, all that is necessary is, as Sales J says, to say so."
10. There is nothing in the materials before me indicating what it was that should have led Judge Hunter to a full second stage Article 8 assessment beyond the provisions of the Immigration Rules. The appellant's case under the Immigration Rules was that there were insurmountable obstacles to family life being exercised in Pakistan and the judge had

already found, sustainably, that there were not. The approach at [40] was sound and not in error. The reference to Huang [2007] UKHL 11 at paragraph 6 adds nothing.

11. The argument at paragraph 5 of the grounds that the appellant's short time in the UK compared to that in Pakistan, undisputedly his most important formative years being spent there, could amount to a private life of any serious weight is without any merit. This paragraph is otherwise only disagreement with the findings on the reasonableness of the appellant and his wife being able to exercise their family and private lives in Pakistan. The same is equally so for paragraphs [7] - [9] of the grounds.
12. At the hearing Mr Turner sought to raise a number of points outside the written grounds. He submitted that weight should have been placed on the wife having shown that she had the requisite income to meet the financial requirements of Appendix FM and the failure to meet the documentary requirements being very minor. That submission appeared to me to a "near-miss" argument long since found to be an impermissible approach to an Article 8 proportionality assessment.
13. The suggestion that the appellant's wife being British precluded her circumstances being assessed through the prism of the Immigration Rules did not make sense to me where the Immigration Rules and case law require that to be the case.

Notice of Decision

The determination of the First-tier Tribunal does not disclose a material error on the point of law and shall stand.

Signed 
Upper Tribunal Judge Pitt

Date: 19 May 2015