



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/10302/2014

THE IMMIGRATION ACTS

Heard at Bennett House, Stoke
On 22 October 2015

Decision and Reasons Promulgated
On 23 October 2015

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

BABAR IQBAL

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: None

For the respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant has appealed against a decision of First-tier Tribunal Judge Lenier dated 23 June 2015 in which the appellant's appeal against the refusal to grant entry clearance as a spouse was dismissed under the Immigration Rules and under Article 8 of the ECHR.
2. The appellant was not represented at the hearing but his solicitors submitted written representations on his behalf. Mr McVeety indicated that since preparing the rule 24 response, further consideration had been given to the case

such that he invited me to allow the appeal and to re-make the decision by allowing the appellant's appeal under the Immigration Rules.

3. I am satisfied that this is the correct course to follow. The judge erred in law in focusing upon whether the relevant pay slips had been sent with the appellant's application for entry clearance. As Mr McVeety pointed out, the real issue for the judge to determine was whether there was sufficient specified evidence available to the judge appertaining to the date of decision. The relevant pay slips appertaining to the date of decision and compliant with Appendix FM-SE were available to the judge and there was an error of law in failing to consider these.
4. I am therefore satisfied that the judge has committed a material error of law. Of course the judge was not assisted in this case because as he observed the evidence was bulky and rather unmanageable. The matter was determined on the papers and without the benefit of oral submissions.
5. I am also satisfied that I should accept Mr McVeety's invitation to remake the decision and allow the appeal. As at the date of decision the appellant has demonstrated by reference to specified evidence that the sponsor had the following income: £15,568 in wages and £4000 in rental income. This exceeds the relevant threshold of £18600. As the issue of meeting the relevant financial requirements was the only matter in dispute and is now accepted by the SSHD, it follows that the appeal must be allowed.

Decision

6. The decision of the First-tier Tribunal involved the making of a material error of law and is set aside.
7. I remake the decision by allowing the appellant's appeal and directing that entry clearance shall be granted.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
22 October 2015