



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/13041/2017

THE IMMIGRATION ACTS

Heard at Field House
On: 1 November 2018

Decision and Reasons Promulgated
On: 29 November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

MR A H
(ANONYMITY DIRECTIONS MADE)

Appellants

and

THE ENTRY CLEARANCE OFFICER - Bangladesh

Respondent

Representation:

For the Appellant: Mr Islam, Legal Representative

For the Respondent: Mr T Lindsay, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh who had appealed against the decision of the respondent dated 20 September 2017 to refuse to grant them leave to enter the United Kingdom pursuant to his family life with his spouse in the United Kingdom. First-tier Tribunal Judge Jessica Pacey dismissed the appellant's appeal in a decision dated, 6 August 2018 on "human rights grounds."

2. Permission to appeal was granted by First-Tribunal Judge Beach stating that it is arguable that the Judge miscalculated his sponsor's earnings by calculating seven months earnings as opposed to 6 months which would have proved that the sponsor was earning the required income under the immigration rules.
3. At the hearing Mr Islam explained how the error in the calculation came about. He said that the appellant provided six months' payslips which demonstrated that she would earn £18,800 a year. Mr Lindsay on behalf of the respondent said that the key issue was that the appellant had not provided her employer's letter which is a mandatory requirement under FM-SE 3.2.2 (b). She said although an accountant's letter had been provided but that does not mean the accountant is has been authorised by the sponsor's employer. She further said that there is no document from the employer to demonstrate that the accountant is acting for the sponsor's employer. She further stated that the sponsor left her husband and children in Bangladesh and chose to come to the United Kingdom leaving her children behind.
4. The appellant's three children live in Bangladesh. The sponsor is applying for entry clearance on his own with the intention of leaving the children in Bangladesh to be looked after by their aunt. At the hearing, the Judge records that the sponsor stated that after her husband comes to the United Kingdom, they would apply for the children to join them. She said that they did not apply together because she did not have sufficient income to meet the requirements of the immigration rules.
5. At the hearing there was no evidence from the sponsor's employer that the accountants report has been produced and authorised by the sponsors employer. I accept the Home Office presenting Officer's submissions that a letter from the employer is a mandatory requirement under the immigration rules. The appellant has not provided this letter and therefore cannot succeed under the immigration rules.
6. I find that the Judge did not make a material error of law in her assessment of Article 8 and nor was it specifically raised. I however find her assessment is through and it takes into account the best interests of the appellant's three children. The appellant did not meet the requirements of the immigration rules and the Judge was entitled to find that the interference of the appellant's family life with his sponsor is proportionate. It is a decision made by the appellant and the sponsor for the sponsor to leave her family in Bangladesh and go to the United Kingdom. It is not a decision imposed upon them.
7. In considering the totality of the decision I am not satisfied that there is a material error of law or fact in the decision. There is no perversity in the reasoning and the Judge's conclusion on the evidence. I find that no differently constituted Tribunal would come to different conclusion on the facts of this case.

Decision

Appeal dismissed

Signed by

A Deputy Judge of the Upper Tribunal
Mrs S Chana

This 21st of November 2018