



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/06974/2013

THE IMMIGRATION ACTS

Heard at Field House
On 3rd September 2013

Determination Promulgated
On 9th September 2013
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Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MR KAMRAM KHAN
(ANONYMITY ORDER NOT MADE)

Claimant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss D Ofei-Kwatia (Instructed by M-R, Larkshall Rd)
For the Respondent: Mr T Wilding (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. This is an appeal to the Upper Tribunal, with permission, by the Appellant against a determination of the First-tier Tribunal (Judge Widdup) promulgated on 3rd July 2013 by which he dismissed the Appellant's appeal against the Secretary of State's decision to refuse him leave to remain on the basis of his long residence in the UK.

The application was made on 5th July 2012 and thus was made under the old 14 year Rule that was deleted on 9th July 2012.

2. The grounds seeking permission to appeal argue that the Judge erred in failing to attach appropriate weight to wage slips produced by the Appellant as evidence of his presence in the country and also a Tenancy Agreement. Miss Ofei-Kwatia submitted that the Judge erred in stating that the burden of proof rested with the Appellant as in the case of allegations of forgery the burden of proof lay with the Secretary of State. Further the Judge erred in failing to take into account more recent documents as evidence of the Appellant's continuous presence in the UK. Despite what the Judge says in the determination he has not looked at the documents in the round.
3. In essence Miss Ofei-Kwatia argued that the documentary evidence was overwhelming and should have led to a successful outcome
4. It was also argued that the Judge did not deal adequately with Article 8 and that he erred in failing to consider paragraph 276ADE.
5. Dealing with the last point first, the Appellant was claiming 14 years residence (not lawful) and so unless he established that length of residence paragraph 276ADE is irrelevant
6. It is true that the Appellant had submitted a large number of documents purporting to show residence for 14 years. The criticism of the Judge refers to a payslip wit regard to which the Secretary of State noted in the Letter of Refusal the tax code was incorrect. As the Judge noted at paragraph 22 of the determination, the Secretary of State adduced no evidence to support that assertion and so the Judge found he was unable to find whether the payslip was genuine or not and so indicated that he would assess the credibility of the evidence in the round. There is no error of law disclosed there. He has not agreed with the Secretary of State's assertion but simply said that the he will look at it when assessing credibility as a whole.
7. The other criticism levelled at the Judge with regard to the documents is his finding in relation to a tenancy agreement and in particular that the name and date were added by hand. However at paragraph 17 the Judge makes clear that he is unimpressed with the Secretary of State's submission. Indeed signatures and dates on legal documents are always "by hand". However the Judge does later on indicate that he cannot rely on that document, not because of a problem on its face but because of inconsistencies and discrepancies in the Appellant's oral evidence.
8. The Judge set out in paragraphs 20 and 25 the numerous difficulties with the Appellant's credibility. The evidence in the witness statements and the oral evidence were discrepant and woefully lacking in detail. For example, the Appellant claimed to have worked for two years in Addlestone and yet was unable to say where Addlestone was. The appellant's credibility in this case was so bad that it could not be rescued by documents and faced with such a lack of credibility the Judge was entitled to find the documents could not be relied upon. The Appellant's written and

oral evidence was so lacking in credibility it would have been astonishing if the Judge had reached any other conclusion than he did.

9. The Appellant not having established continuous residence in the UK for 13 years, paragraph 276ADE has no relevance.
10. So far as Article 8 is concerned it is true that the Judge dealt with this briefly. However there was no evidence of family life and it could not be said how long the Appellant had been in the UK. He is a national of Pakistan and still speaks the language; indeed requested an interpreter for the hearing. There was nothing to suggest that he could not enjoy a similar and comparable private life in Pakistan.
11. I can discern no error of law in the Judge's approach to Article 8 but even if there were this is not a case that could possibly succeed on Article 8 grounds.
12. I find that the First-tier Tribunal Judge made no error of law that could possibly have led to a different outcome and so the determination stands.
13. The appeal to the Upper Tribunal is dismissed.

Signed

Date 5th September 2013

Upper Tribunal Judge Martin