



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

Appeal Number: VA 09726 2013

THE IMMIGRATION ACTS

Heard at Field House

On 11 April 2014

Determination

Promulgated

On 23 April 2014

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

ZANIB BIBI

and

ENTRY CLEARANCE OFFICER ABU DHABI

Appellant

Respondent

Representation:

For the Appellant: Mr C Ahmed, counsel instructed by Gramdan Solicitors

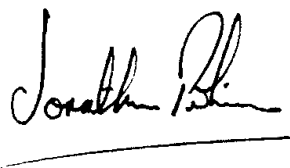
For the Respondent: Mr G Jack, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal by a citizen of Pakistan, a woman in her 80th year, against a decision of the First-tier Tribunal dismissing her appeal against the respondent's refusal to grant her an entry clearance as a family visitor. There was some uncertainty about whether in fact the application was as a family visitor but that has been resolved in her favour and that finding has not been challenged.
2. The First-tier Tribunal Judge was not persuaded that the appellant intended to return to Pakistan at the end of her visit. This is the sort of case which was going to be tricky to decide properly. It is not a case where the appellant has been shown to be dishonest in any way and in many places the evidence appears to be extremely honest. For example her sponsor in the United Kingdom was found in many respects to be a very satisfactory witness and some of the things that have been used against the appellant such as her ill-health in Pakistan and need for support in Pakistan were disclosed openly in correspondence before the application was made.

3. At paragraph 28 of the determination the First-tier Tribunal Judge listed five points that were of particular concern. The judge noted that the appellant had substantial family in the United Kingdom and in Pakistan but also that she had primary carers in the United Kingdom, no obvious economic reason to return to Pakistan, no history of travel to the United Kingdom which would be an indicator of future behaviour and was of an age when she could be expected to be needing more help.
4. There was an element to the evidence that was unsatisfactory because the application referred to the appellant not being well. Her niece had said that she wanted to return to the United Kingdom and could not leave the appellant on her own. The appellant's supporter in the United Kingdom, Mr Rashid, her niece's husband, referred to the appellant's good health. This was a tension of the evidence that could not be resolved. There are many possible explanations. One is that Mr Rashid was talking about the present situation and the niece was talking about the situation at the time of the application. Another is that Mr Rashid is out of touch. Elderly people are not always keen for people who do not need to know to realise that they are failing. Certainly Mr Rashid has not been found to have been a liar but it was an inconsistency in the evidence that made the First-tier Tribunal Judge cautious.
5. The First-tier Tribunal Judge has identified the areas of tension and has reached the conclusion that the appellant has not proved her case.
6. Before me Mr Ahmed had a difficult task because, as he appreciated, he had to show not how the appeal could have been allowed but that it was wrong for the First-tier Tribunal to have refused it. Although he presented the case fairly and determinedly he really could make no progress on that point.
7. There is reference in the grounds to the failure of the First-tier Tribunal Judge to make a specific finding about the appellant's intention without making enquiries on her general credibility. That is a technical point but does not stand up to proper analysis. The findings were set in the context of the evidence as a whole and were open to the First-tier Tribunal Judge. It is quite clear that the First-tier Tribunal Judge found that the appellant had not proved her intentions and the judge gave proper reasons for not being satisfied.
8. This does not mean that a further application would lead to a similar decision but I cannot find any error of law in the decision that has been made and therefore I dismiss the appellant's appeal to the Upper Tribunal.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 17 April 2014