



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

Appeal number: IA/01448/2014

THE IMMIGRATION ACTS

Heard at Manchester

Decision and Reasons

Promulgated

On March 11, 2015

On March 12, 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR CHAUDHRY UMAR IFTIKHAR
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

Appellant

Mr Ahmed (Legal Representative)

Respondent

Mr McVeety (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan. On August 7, 2013 the appellant, through his legal representatives, applied for a residence card as confirmation of his right to reside in the United Kingdom pursuant to the Immigration (European Economic Area) Regulations 2006. On December 1, 2013 the respondent refused the application.

2. The appellant appealed on December 30, 2013 under section 82(1) of the Nationality, Immigration and Asylum Act 2002 and Regulation 26 of the 2006 Regulations. .
3. The matter came before Judge of the First-tier Tribunal Carroll (hereinafter referred to as the "FtTJ") on September 19, 2014 as a paper case and in a decision promulgated on October 3, 2014 he refused his appeal under the 2006 Regulations.
4. The appellant lodged grounds of appeal on October 15, 2014 submitting the FtTJ had erred by failing to have regard to all of the documentary evidence.
5. On November 20, 2014 Designated Judge of the First-tier Tribunal MacDonald gave permission to appeal finding there were arguable grounds that the FtTJ had erred by arguably not making specific findings in relation to the reliability of the documents and instead concentrating on the lack of evidence and the reasons given in the refusal letter.
6. The matter came before me on the above date and the parties were represented as set out above. The appellant was not in attendance.

ERROR OF LAW SUBMISSIONS

7. Mr Ahmed submitted the FtTJ had failed to consider all of the documents when making his decision and had not provided adequate reasoning in rejecting the application. There was evidence in the bundle that supported the claim the EEA national was working and exercising treaty rights.
8. Mr McVeety adopted the rule 24 response dated November 26, 2014 and argued the FtTJ made findings that were open to him on the evidence. There were inconsistencies in the documents and whilst those inconsistencies may have been explained by oral or written evidence the FtTJ could not be criticised for reaching conclusion he did. The appellant could have provided a letter from the employer or a letter from his wife addressing the concerns raised but failed to do so. He then chose not to pursue an oral hearing and instead chose to pursue a hearing on the papers. The appellant only had himself to blame when matters that concerned the FtTJ could not be addressed through questioning.
9. Mr Ahmed referred me to a letter in the bundle from the accountants that confirmed the appellant's wife's employer's exact name and the FtTJ failed to deal with this evidence.
10. Having considered the submissions, the evidence and the FtTJ's determination, in particular, I refused the appeal and indicated to Mr Ahmed I would give my written reasons in this determination.

ERROR OF LAW ASSESSMENT

11. The appellant chose to pursue his appeal rights on the papers and the consequence of this approach was that the FtTJ was not satisfied. The name on the contract and a Google search of the company differed from the name on the payslips. The original letter from the accountants dated August 16, 2013 contained a different employer's name to that of their more recent letter dated August 13, 2014. Mr Ahmed agreed during the hearing that all of the observations and submissions he made did not address the concerns raised by the FtTJ in paragraph [7] of his determination.
12. Mr McVeety summed up the position when he submitted that if the appellant had produced an explanation from the employer and perhaps a statement from his wife or there had been an attendance by the appellant then these matters may have been resolved.
13. I am satisfied that although harsh the FtTJ did not err. There were inconsistencies on the documents and whilst I accept there may be an innocent explanation such as an abbreviated trading name this was not something before the FtTJ and he was entitled to make the findings he did.
14. If the appellant can produce the correct evidence and explain any inconsistencies then I see no reason why a future application should not be granted although ultimately that would be a matter for the respondent.
15. On the evidence presented the decision was open to the FtTJ and there is no error in law.

DECISION

16. There was no material error. The original decision shall stand.
17. The First-tier Tribunal did not make an anonymity direction pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order.

Signed:

Dated: **March 12, 2015**

Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT FEE AWARD

No fee award is made.

Signed:

Dated: **March 12, 2015**

Deputy Upper Tribunal Judge Alis