



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

Appeal Number: IA/47646/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 24 January 2015**

**Determination
Promulgated
On 28 January 2015**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MR AHMED ALI
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Paramjorthy, Counsel, Direct Access Barrister
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the determination of First-tier Tribunal Judge A R Williams promulgated on 29 September 2014, dismissing his appeal against the decision of the Secretary of State made on 8 August 2013 to refuse him leave to remain in the United Kingdom.
2. The appellant's case is, in brief, that he had entered the United Kingdom in 1997 and has remained here since, and had for the greater part of that

time worked here. He also states that he has lost all ties to Pakistan and that accordingly therefore he is entitled to indefinite leave to remain in the United Kingdom on the grounds of long residence having spent at least fourteen years' residence here, pursuant to paragraph 276B of the Immigration Rules; alternatively, that he is entitled to leave to remain in the United Kingdom pursuant to paragraph 276ADE of the Immigration Rules.

3. The respondent refused the application on the basis that she was not satisfied that the appellant had been resident in the United Kingdom for fourteen years continuously, noting significant errors within the documents produced and that the P60 forms adduced as evidence of his presence here had been presented with a temporary national insurance number. She was not satisfied either that the appellant had satisfied the requirements of paragraph 276ADE of the Immigration Rules.
4. When the matter came before Judge A R Williams initially on 3 June 2014 when it was adjourned to 24 September 2014 to allow the appellant additional time to produce further material relating to his presence in the United Kingdom in addition to the documentary evidence which had been produced. Judge Williams heard evidence from the appellant and from Mr Junaid Shahzeb.
5. Judge Williams found:-
 - (i) that some of the documents presented by the appellant caused grave concern, containing atrocious errors [27] which shows that it became difficult for the Tribunal to rely on other documents which appeared to be genuine [28];
 - (ii) that he could not, on all the evidence before him, conclude the appellant had been in the United Kingdom on a continuous basis of at least fourteen years prior to that application and that "only one witness, apart from the appellant himself, was called. Little weight can be attached to that evidence.";
 - (iii) that there was no evidence before him, apart from an assertion made by the appellant at the end of the case, that he had no one to return to in Pakistan, that there had been no evidence whereby he could conclude that the appellant had no ties to that country [81]; and
 - (iv) that the appellant's removal to Pakistan would not be disproportionate thus the Article 8 appeal fell to be dismissed.
6. The appellant sought permission to appeal on the grounds that:-
 - (i) that the judge had erred materially in making no specific findings in relation to the P60s adduced other than stating that no attempt had been made to contact HMRC;

- (ii) that the judge had erred in attaching little weight to the evidence of Mr Shahzeb and in providing no reasoning as to why little weight is attached despite the oral evidence subject to cross-examination;
 - (iii) that the judge had erred in stating that there was no evidence that the appellant had no ties to Pakistan when the appellant had given oral evidence on this issue in June and September 2014, as supported by detailed oral evidence;
 - (iv) that these errors affected not only paragraph 276ADE but also the assessment of Article 8 and proportionality.
7. On 1 December 2014 First-tier Tribunal Judge Levin granted permission to appeal.
 8. Mr Paramjorthy submitted, relying on the grounds, that Judge Williams' assessment of the witness's evidence was unsatisfactory. Mr Walker, for the Secretary of State submitted that viewing the determination as a whole, it was evident that looking in particular what the judge had said at paragraphs 26 and 37, that the judge had reached conclusions that were open to him. He submitted further that it was evident from the judge's assessment of the evidence [20] that the witness' evidence could not account for the whole of the period the appellant said that he had spent in the United Kingdom.
 9. In reply Mr Paramjorthy submitted that whilst weight was a matter for the judge, there was simply no explanation here as to why little weight had been attached to the evidence of Mr Shahzeb; or, if little weight had been attached to what extent it had been considered at all. It was, he submitted, an absence of reasoning.
 10. In the context of the defects identified by Judge Williams at paragraph [27] of the determination, and observations regarding the problems with the P60s produced [26] it is unarguable that the judge was entitled to attach no weight to the P60s hence his reasons for so doing [26] in the context of the documents as a whole, is adequate and sufficiently explains his approach.
 11. That said, the determination does not explain adequately why the judge, absent any adverse credibility findings, did not accept the evidence of Mr Shahzeb or why he attached little weight thereto. Whilst I note Mr Walker's submission that the evidence of the witness was not capable of corroborating the entirety of the time the appellant had spent in the United Kingdom, that is not a reason given by the judge, nor is it necessarily so. Further, as Mr Paramjorthy submitted, it is not entirely correct to say that there was no evidence regarding whether the appellant had lost all ties to Pakistan.
 12. For these reasons, I am satisfied that the decision of Judge Williams did involve the making an error of law and I set it aside. Given that there will

need to be a fresh examination of all the evidence in particular the evidence of the witness, I am satisfied that it would be appropriate for this matter to be remitted to the First-tier to be heard afresh.

SUMMARY OF CONCLUSIONS

- 1 The decision of the First-tier Tribunal did involve the making of an error of law and I set it aside.
- 2 I remit the matter to the First-tier Tribunal for a fresh decision on all issues. None of the findings of fact are preserved.

Signed

Date

Upper Tribunal Judge Rintoul