



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: VA/04799/2014**

THE IMMIGRATION ACTS

**Heard at Columbus House,
Newport
On 22 October 2015**

**Decision and Reasons
Promulgated
On 6 November 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE L MURRAY

Between

MUHAMMAD RIAZ HUSSAIN

Appellant

And

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Sponsor in person

For the Respondent: Mr I Richards, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a Pakistani national and was born on 3 February 1972. He applied for entry clearance as a visitor and his application was refused by the Respondent on 4 June 2014. His right of appeal was limited to the grounds referred to in section 84 (1) (c) of the Nationality, Immigration and Asylum Act 2002. He appealed against the Respondent's decision and his appeal was dismissed by First-tier Tribunal Judge O'Hagan in a decision promulgated on 2 March 2015.

2. The Appellant sought permission to appeal to the Upper Tribunal. First-tier Tribunal Judge McDade refused permission. The Appellant renewed his application to the Upper Tribunal and permission to appeal was granted by Deputy Upper Tribunal Judge Davey on 12 August 2015. Permission to appeal was granted on the basis that the First-tier Tribunal made no reference in its decision to the Appellant's sister, Zahra Saqib, despite the fact that there was evidence before the Tribunal that she had invited him to stay. Her passport details showing she was a British Citizen and evidence that she lived in the United Kingdom had been provided. However, the First-tier Tribunal considered only the proposed visit to the Appellant's sponsor who was not a member of his family.

Submissions

3. The Appellant's sister, Zahra Saqib attended the hearing as did the sponsor Mr Gulzar Khan. She relied on the grounds of appeal drafted by Habib Law Associates. She said that she did not attend the hearing before the First-tier Tribunal. She had not been in a financial position to sponsor the Appellant and hence Mr Khan had sponsored him. The Appellant was financially independent and not dependent on UK relatives.
4. Mr Richards submitted that there was no evidence before the First-tier Tribunal of family life between adults given that it was only Mr Khan who appeared at the hearing. It was not reasonable to expect the First-tier Tribunal to go into matters that were not before him. There was no error or any error of law was not material given that there was no evidence that would engage the Convention.
5. I reserved my decision in relation to whether there was a material error of law in the decision of the First-tier Tribunal.

The Grounds for permission

6. The grounds seeking permission to appeal from the First-tier Tribunal to the Upper Tribunal are dated 3 March 2015. They attempt to reargue the Appellant's case under paragraph 41 of the Immigration Rules. In relation to paragraph 41 the grounds are inarguable as the Appellant has a limited right of appeal on human rights grounds only. They do however assert that the Appellant intended to visit his sister and that the First-tier Tribunal ignored the fact that she was living in the United Kingdom. It is said at paragraph 5 that she cannot go to Pakistan due to her children being in school and due to other commitments. The renewed grounds again assert that the Appellant's sister is living in the United Kingdom and that the Appellant has a right to visit her.

Rule 24 Notice

7. The Respondent asserts that the evidence in respect of family life was very limited and appears to be simply the assertion that the Appellant intends to visit his sister who is living in the UK. The Respondent considered that

there was insufficient evidence before the Judge to establish that there was a protected Article 8 family life. The fact that the Appellant may have a sibling in the United Kingdom is said to be clearly insufficient to establish that there is a protected Article 8 family life.

Findings and conclusions

8. The First-tier Tribunal dismissed the Appellant's appeal under Article 8 ECHR because, as set out in paragraph 10 of the decision, he found that the sponsor's relationship with the Appellant was one of friendship only. In considering whether Article 8 was engaged, he considered only the Appellant's relationship with the sponsor. There is no mention in the decision of the Appellant's sister in the United Kingdom. He heard evidence from the sponsor who it does not appear from the summary of his evidence at paragraph 4 mentioned the existence of the Appellant's sister. However, the Appellant submitted evidence with his application of his intention to visit his sister. In answer to question 78 of his application form he stated that he had a sister in the UK. He submitted a document entitled "Declaration by International Visitor" in which he stated his intention to visit his sister and her children. He also submitted a letter of invitation from her dated 21 April 2014 and her passport details and those of her children.
9. In view of the fact that the evidence before the First-tier Tribunal showed that the Appellant had a sister in the United Kingdom the First-tier Tribunal should have considered whether Article 8 (1) was engaged with regard to this relationship. However, I do not find that the failure to do so amounted to a material error of law for the following reasons. In order for Article 8 (1) to be engaged in relation to adult siblings there must be evidence of further elements of dependency, involving more than the normal emotional ties. The further element of dependency does not have to be economic. However, it is necessary to show that ties of support, either emotional or economic, are in existence and go beyond the ordinary and natural ties of affection that would accompany a relationship of that kind (**Kugathas v SSHD [2003] EWCA Civ 31**). Article 8 (1) does not cover links between adult siblings who have been apart for a long period of time and are not dependent on each other (**Senthuran v SSHD [2004] EWCA Civ 950**).
10. The Appellant's sister did not attend the hearing before the First-tier Tribunal and there was no evidence before it to suggest that the relationship was anything other than a normal one between adult siblings. It is clear from both the application form and the financial evidence submitted with the application that it was the Appellant's contention that he was financially independent. There was no evidence of close ties. Further, the grounds of appeal do not assert that the relationship is one of the kind that could engage Article 8. The First-tier Tribunal's failure to consider this relationship could therefore have made no difference to the outcome of the appeal. In the circumstances no material error of law has been demonstrated.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Signed:

Date:

Deputy Upper Tribunal Judge L Murray