



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

Appeal Number: IA/27569/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 29 September 2017**

**Decision & Reasons  
Promulgated  
On 09 October 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HILL QC**

**Between**

**CATHERINE FRIDA BAFOUR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr D Mold, Counsel instructed by Daniel Aramide Solicitors  
For the Respondent: Mr P Nath, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal from the decision of First-tier Tribunal Judge Graves promulgated 30 December 2016. The grounds pursuant to which permission was sought read as follows:

“2.1 It is submitted that the failure to consider all relevant evidence, give adequate reasons for findings and make adequate findings of fact amounts to an error of law which is material to the outcome of the appeal”

It is contended that the appellant had submitted P60s for the last five years of residence in the United Kingdom and that the Immigration Judge had misdirected himself by not specifying which year was not accepted with respect of the appellant’s residence.

2. In granting permission to appeal on 26 July 2017, First-tier Tribunal Judge Page said:

“The application argues that the appellant had submitted evidence of his tax records for the previous five years of residence in the UK and the judge has erred by not specifying where the judge found there was a gap in the evidence of the appellant exercising Treaty rights in the United Kingdom after the date of her divorce”.

3. There was then a Rule 24 response by the Home Office, the salient part of which is at paragraph 3:

“In a well reasoned determination the judge considered all of the evidence and concluded as was open to him that the appellant is not entitled to a permanent residence card. The judge refers to evidential gaps at [16], [17] and [29]. The burden was on the appellant to make her case which she clearly failed to discharge.”

4. The determination is full and lucid determination addressing significant absences of documentary and other evidence. The judge asked Mr Mold of Counsel to confirm which five year period the appellant was relying upon ([16] and [17]), concluding:

“I note that even at its highest the appellant’s own financial documents did not cover the period up to the date of hearing since they end in 2016.”

5. The judge at [28], having touched on the applicable periods several times already states:

“I therefore find that there is sufficient evidence before me, based on the HMRC documentation in the respondent’s bundle, to find that the sponsor was exercising Treaty rights between 31 January 2012 and the date of divorce. The HMRC document says the sponsor was employed with Anabas from 31 January 2012 to 5 June 2014, and by Champion Employment between 6 July 2012 to 1 November 2013. For each employer he earned a non incidental amount of gross income. He was then employed between March 2014 and July 2014 for International Subcontracting and appeared to have ceased all of

his various employments by July 2014, which was the month in which the divorce was decreed. He may well have registered as self employed, but only made returns from 2012 for a small amount of turnover.”

6. Then at [29]:

“There is evidence before me to demonstrate, to the civil standard, that the sponsor was employed between 31 January 2012 and July 2014. In the months immediately before 31 January 2012 I find there is insufficient evidence to establish that he was exercising Treaty rights.”

7. Mr Mold, who again appears for the appellant this morning, quite rightly points out that there is an error in the grant of permission to appeal in that it refers to the appellant’s exercise of treaty rights rather than those of the sponsor. Leaving that aside, he very properly states that the ground upon which permission has been granted is not one which is sustainable on the evidence. Not having instructions to concede the appeal, he has left the matter for my determination.
8. I come inevitably to the conclusion that there is no error of law in the determination of the First-tier Tribunal and in those circumstances I dismiss this appeal.

### **Notice of Decision**

(1) Appeal dismissed and determination of First-tier Tribunal affirmed.

(2) No anonymity direction is made.

Signed

*Mark Hill*

Date

9 October 2017

Deputy Upper Tribunal Judge Hill QC