



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/02555/2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 8th December 2017**

**Decision & Reasons
Promulgated
On 25th January 2018**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**AROOSA AKHTAR
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr D Clarke, Home Office Presenting Officer
For the Respondent: Ms A Harvey, instructed by Salisbury Law

DECISION AND REASONS

1. Although this is an appeal by the Secretary of State I refer to the parties as in the First-tier Tribunal. The Appellant is a citizen of Pakistan born on 5 September 1993. Her appeal against the refusal of entry clearance was allowed by First-tier Tribunal Judge I D Boyes on 7 March 2017.
2. The judge concluded that at the date of hearing the Appellant met the financial requirements of the Immigration Rules. Permission to appeal was sought by the Respondent on the ground that the judge should have dismissed the appeal on the basis that the Appellant could not meet the requirements of Appendix FM-SE having failed to provide the necessary

specified documents with the application. Accordingly, having found that the Appellant met the requirements of the Rules the judge erred in law.

3. Permission was granted by First-tier Tribunal Judge G A Black on the grounds that the very brief decision contained no analysis of the evidence as to how the Appellant met the financial requirements or what documents were produced. The Appellant provided tax returns for 2012/2013 and 2013/2014, and two tax returns and bank statements for 1 August 2014 and 2 February 2015 with the application which failed to meet the requirements of the Rules under 9(b), (c) and (d). The Rules require that the documents be produced at the date of application. The judge concluded that the Appellant met the specified evidence Rules at the date of hearing. The judge gave no consideration to the relevant date for meeting the requirements of the Rules and therefore the grounds were arguable.
4. Mr Clarke submitted that this was a human rights appeal and although the decision maker was not allowed to take into account material not submitted with the application that was not the case in respect of the hearing before the First-tier Tribunal. The judge could look at this new evidence and was not precluded from doing so under Section 85 of the 2002 Act as amended. Mr Clarke submitted that the grounds did not challenge the proportionality assessment and therefore it would not be proper for him to argue a materiality point. It was accepted by the Presenting Officer, in his note on the court file, that the Appellant satisfied the Immigration Rules at the date of hearing.
5. Accordingly, on that basis I find that the judge was not precluded from looking at post decision evidence and his conclusion that the Appellant satisfied the Immigration Rules at the date of hearing was one which was open to the judge on the evidence before him.
6. I find that there is no error of law in the decision of 7 March 2017, allowing the Appellant's human rights appeal against the refusal of entry clearance, and I dismiss the Respondent's appeal.

Notice of decision

Appeal dismissed

No anonymity direction is made.

J Frances

Signed
Upper Tribunal Judge Frances

Date: 24 January 2018