



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/13264/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 25th January 2018

**Decision & Reasons
Promulgated
On 5th March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

RAFIDA BIBI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Z Nasim of the Legal Rights Partnership
For the Respondent: Ms K Pal, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Thomas made following a hearing at Birmingham on 4th April 2017.

Background

2. The appellant is a citizen of Pakistan born on 10th August 1987. She applied to come to the UK as a spouse but was refused on 26th October 2015 on the grounds that the Entry Clearance Officer was not satisfied

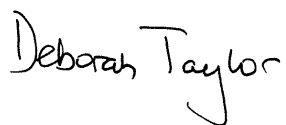
that the parties were in a genuine and subsisting relationship. He also refused the application on financial grounds.

3. The judge found in the appellant's favour so far as the marriage itself was concerned and recorded that the respondent had conceded in the review that the required pay slips and corresponding bank statements showing income had been provided. However she dismissed the appeal because she was not satisfied that a letter of employment in the specified format had been provided.
4. The appellant appealed against the decision on the grounds that the judge had accepted that the job letter issued by HSBC Bank had been submitted as a part of the application but, because the letter was not contained in the bundle, of her own volition had concluded that she could not be satisfied that the letter was in the correct format. Furthermore a copy of the employer's letter was in fact provided to the judge after the hearing but before promulgation of the appeal.
5. Permission to appeal was granted by Judge Brunnen on 13th December 2017.
6. At the hearing Ms Pal, on behalf of the Entry Clearance Officer, said that she did not oppose a reversal of this decision and was content that the appeal ought to be allowed.
7. The judge erred in law. The Entry Clearance Officer had never raised any issue as to the format of the employer's letter and nor had the Presenting Officer at the hearing. The judge erroneously raised a new issue without giving the parties an opportunity to make representations and had speculated on the contents of the employer letter. The judge further erred by failing to take into account all of the relevant evidence i.e the employer's letter which was sent after the hearing but before the determination was promulgated.

Notice of Decision

The original judge's decision is set aside. It is re-made as follows. The appellant's appeal is allowed. Given the very lengthy delay in this case, and the length of time that the couple have been separated, it would be helpful if entry clearance could be issued as soon as practicable.

No anonymity direction is made.



Signed
Deputy Upper Tribunal Judge Taylor

Date 24 February 2018