



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/20273/2016

THE IMMIGRATION ACTS

Heard at Field House
On 11 May 2018
Oral judgment

Decision & Reasons Promulgated
On 21 May 2018

Before

UPPER TRIBUNAL JUDGE COKER

Between

MRS NAZIR BEGUM

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Nadeem, Legal Representative

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is a sad case given the age of the appellant. She was born in 1943 and her husband in 1932. The First-tier Tribunal Judge accepted the medical evidence that the appellant has high blood pressure and insulin-dependent diabetes and there is no disagreement with her UK daughter-in-law's assessment and description of how she assists the appellant in terms of cooking, helping her dress, walking and just generally looking after her. This couple are elderly and suffering from illnesses that come with age and these are matters that are sad when in the last years of their life they are faced with possible separation from those who are looking after them well.
2. The fact is that this couple applied for and were granted visit visas in October 2016. At that time, they gave information to the Entry Clearance Officer that they were being looked after by their son and his wife in Pakistan. The evidence put to the First-tier Tribunal was that her son and his wife had decided that they did not want to do that anymore. The judge reached a finding that he attached less weight to the oral evidence

and witness statements relied upon at the hearing. Although the judge talks about well-documented evidence before the Entry Clearance Officer which was not produced, the judge is still entitled, on the basis of the oral and written evidence that he heard, to reach a finding that he places less weight on the assertion that the son in Pakistan is not willing to look after them anymore than the fact that at the time when the Entry Clearance Officer granted the visas it would have been accepted that the son and daughter-in-law in Pakistan were looking after them. If there had been any indication that on arrival in the UK the son and daughter-in-law in Pakistan would cease to look after them or did not intend to look after them when they returned to Pakistan, then it is highly unlikely that an entry clearance would have been granted.

3. The other findings made by the judge were findings that were open to the judge on the evidence. There is consideration by the judge of the family ties that have been developed and the close relationship between the appellant and her husband and the grandchildren but those family ties are simply insufficient to justify the finding that the decision to refuse the human rights claim is disproportionate. There was no evidence before the First-tier Tribunal that it was not possible to find or make arrangements for alternative care for this couple on their return to Pakistan if it were the fact that the son and daughter-in-law were not prepared to continue looking after them. That is not to say that a family member from the UK has to go to Pakistan but there is simply insufficient evidence or no evidence to show that the family in the UK had attempted to obtain evidence of what facilities were available; whether it was possible to employ servants or housekeepers or whether there was any sort of care home or any other kind of facilities that were available for this elderly couple to be looked after properly in their declining years. I find that the decision of the First-tier Tribunal was a decision that was reasonably open to the judge on the evidence that was before him.
4. There is no material error of law by the First-tier Tribunal Judge such that the decision is to be set aside. I do not set aside the decision of the First-tier Tribunal. The First-tier Tribunal decision stands and the appeal is dismissed.
5. That of course is not to say that another application could not be put to the Secretary of State with any necessary further evidence from the family in Pakistan and in terms of any research and so on as to what possible care is available and what care is needed. But that is a matter for another application to be made and for the Secretary of State to consider that application in accordance with paragraph 353 of the Immigration Rules.

Notice of Decision

The appeal is dismissed.



Signed

Upper Tribunal Judge Coker