



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-000178
First-tier Tribunal Nos:
EA/50525/2020
IA/01119/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 31 January 2023

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

RAMANJIT KAUR
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Kannangara, Counsel, instructed by Direct Public Access
For the Respondent: Mr P Deller, Senior Home Office Presenting Officer

Heard at Field House on 7 April 2022

DECISION AND REASONS

1. This is an appeal by a citizen of India against a decision of the First-tier Tribunal dismissing her appeal against a decision of the Secretary of State to refuse her an EEA family permit as the extended family member of a Polish national living in the United Kingdom.
2. It is important to look at the Secretary of State's reasons for refusal because it opens up issues that were perhaps slightly lost in the First-tier Tribunal's decision.

3. This shows that the application was made on 26 August 2020 and refused on 16 October 2020. It was refused in part because the appellant had not provided “adequate evidence in support of your application”.
4. This rather broad phrase was explained to some extent in the letter.
5. The appellant entered the United Kingdom as a visitor intending to leave on 4 January 2020. She said that her circumstances had changed. She produced money showing money transfers from her brother in the United Kingdom to her in India. The sums were not considered sufficient for her to be solely dependent on the money from the United Kingdom.
6. Additionally, the Secretary of State accepted that the appellant’s delay in seeking to extend her stay in the United Kingdom was because of the Covid crisis and drew no adverse inference from that but also said that from 1 February 2017 there was no provision under the EEA Regulations for family members of spouses of EEA nationals to qualify under the EEA Regulations. The application was refused.
7. The First-tier Tribunal made clear findings of fact.
8. The judge noted that whilst living in India the appellant worked as an office receptionist and her husband also worked in India. They travelled to the United Kingdom together for a holiday and her husband returned to his job. The appellant remained as she was entitled to do, then the plans were “turned on their head by the Covid-19 pandemic”.
9. The judge accepted that the appellant’s brother and sister-in-law started sending about £100 each month to the appellant in about September 2018 because the appellant had been diagnosed with epilepsy. The judge said that until then:

“The joint income of the appellant and her husband were sufficient to meet all of their needs. The appellant and her husband were grateful for the contribution from her brother and sister-in-law because that enabled them to meet the additional medical costs caused by the appellant’s diagnosis of epilepsy”.
10. The judge commended the appellant for her candour in accepting that she did not need money from her brother and sister-in-law in the United Kingdom until she developed epilepsy and the judge found that on the figures before him the money from the brother and sister-in-law in the United Kingdom made up 19.6% of the total income of the appellant and her husband. At paragraph 10(d) the judge said:

“Unfortunately, the appellant’s appeal simply cannot succeed. Counsel for both parties agreed that the determinative issue in this case is the question of dependency before the appellant arrived in the UK. What is beyond dispute is that before the appellant came to the UK, she and her husband were employed, and they were comfortable enough to come to the UK for an extended holiday”.
11. At paragraph 10(i) the judge said:

“The weight of reliable evidence tells me that the appellant is not dependent on her sister-in-law. She has benefitted from recent financial contributions, but she is an employable, independent woman. There is nothing to suggest that she is incapable of independent living and is unable to maintain her own home.”

12. The grounds of appeal argue, in summary, that the judge should not have concluded that dependency had not been established when he accepted that the money from the United Kingdom paid her medical bills. This was the core point before me.
13. Mr Deller argued that the First-tier Tribunal Judge was entitled to make the decision that he did. The judge did not say that the medical expenses were necessary, merely that they were incurred. Properly understood, the judge’s finding was not that the appellant depended on the money from the United Kingdom but that she found it convenient and helpful to pay the medical expenses that she felt she needed.
14. I agree that the decision can be read in this way. That might be thought a rather harsh decision but it is certainly supported by the evidence and findings. This is a case where the extra money from the United Kingdom was useful to meet medical expenses but it was not established to the satisfaction of the judge that this was money that was needed.
15. Mr Kannangara argued that the finding was perverse. That had to be his case if he were to establish an error of law but it is not perverse. It was a legitimate, explained conclusion on the evidence. I accept Mr Deller’s argument and it follows that the appeal has to be dismissed.
16. However, Mr Deller made a further important point. The law changed in 2017 and although the refusal letter got the details wrong, the route on which the appellant sought to rely was closed in 2017 as part of the exit provisions. The application could not succeed no matter what degree of dependency had been established.
17. Mr Kannangara had no answer to this point.
18. It follows that I find the judge reached the only answer open to him on the evidence. In all the circumstances I dismiss the appeal.

Notice of Decision

19. The appeal is dismissed.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated 23 January 2023