



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002945

First-tier Tribunal No: EA/11693/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 5 June 2023

Before

UPPER TRIBUNAL JUDGE REEDS

Between

NAVEED AHMED
(NO ANONYMITY ORDER MADE)

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: The sponsor in person

For the Respondent: Ms Z. Young, Senior Presenting Officer

Heard at Phoenix House (Bradford) on 26 May 2023

DECISION AND REASONS

1. Pursuant to section 12 (2) (b) (ii) of the Tribunals, Courts and Enforcement Act 2007, this is the remaking of the decision of Judge of the First-tier Tribunal Garratt promulgated on the 6 April 2023, following the decision dated 23 January 2023 of the Upper Tribunal setting aside the decision of the FtT having found a material error of law in that decision.

The background:

2. The background is set out in the evidence in the decision of the FtTJ and the documents. The appellant applied for a family permit under Appendix EU (Family Permit) as a family member of a relevant EEA citizen, namely the sponsor (the appellant's father), a national of

Germany, resident in the United Kingdom in an application made on 24 April 2021.

3. The application was refused by the Entry Clearance Officer (ECO) with reasons in the refusal dated 29 June 2021. The ECO stated that the appellant had not provided adequate evidence to show that he was dependent on a relevant EEA citizen, or their spouse or civil partner, as set out in Appendix EU (Family Permit) of the Immigration Rules.
4. Consideration was given to the evidence provided and whether the appellant could meet his essential living needs (in whole or in part) without the financial or other material support of the relevant EEA citizen. As evidence of dependency, the ECO noted the material provided by the appellant - money transfers, bank statements, utility bills and receipts. The ECO considered the following statements made - he claimed his bank account had been frozen until recently but had not shown any evidence that it was frozen. He claimed he had injured himself and sold his shop. The letter from the doctor confirms this and states the appellant cannot do heavy manual work, but this does not rule out other jobs. It is stated that the sponsor sends the appellant money for bills however the electricity bill is in the name of his uncle and no evidence of how this is paid. In relation to the money transfers from the sponsor to the appellant, it was noted that the appellant had not provided sufficient evidence of his own domestic circumstances in Pakistan and that without such evidence the ECO was unable to sufficiently determine that he could not meet his essential living needs without financial or other material support from the relevant EEA citizen sponsor. As to the bank account held by the appellant, it showed income in the account before the first transfer from the sponsor to it. Therefore the ECO was not satisfied that any funds the sponsor sent to him could be accredited to meeting the appellant's essential living needs.
5. For those reasons, the ECO was not satisfied that he was dependent on a relevant EEA citizen therefore did not meet the eligibility requirements for an EUSS family permit. The application was therefore refused.
6. The appellant appealed and the appeal came before the FtT on the papers 24 March 2022. In a decision promulgated on 6 April 2022 the FtTJ dismissed his appeal having found that the appellant had not demonstrated on the balance of probabilities that he was dependent on the sponsor.
7. The appellant sought permission to appeal providing written grounds submitted in person and on 19 May 2022 permission was granted by FtTJ Cartin.
8. The appeal came before the Upper Tribunal on the 17 February 2023. In a decision promulgated on 20 April 2023 the decision of the FtTJ was set aside having found a material error of law and directions were given for

the remaking of the decision at a hearing to be listed before the Upper Tribunal. The relevant part of the decision is replicated below:

“Decision on error of law:

9. Having had the opportunity to read the documents, including those which were before the FtTJ but were not uploaded to the CE File and the representations of the parties, I am satisfied that the FtTJ erred in law when assessing the relevant issues relating to this appeal. As FtTJ Cartin set out when granting permission, the FtTJ, when assessing the issues had been distracted into taking into account irrelevant matters whilst failing to give full consideration to the evidence that had been adduced.
10. Whilst the appellant’s grounds (see paragraph 1) refer to the FtTJ as being in error at paragraph 6 of his decision where he stated “dependent” is not defined and relies upon the Annex 1 definition, there is no material error in paragraph 6 as the FtTJ referred to the issue of dependency in the light of its meaning of “essential needs”. The question of dependency entails a situation of real dependence in which the family members, in this case the appellant, is not in a position to support themselves thus needing the material support of the sponsor in order to meet their essential needs. This was in fact referred to by the FtTJ even if he did not refer to the definition in the Annex.
11. However where the FtTJ fell into error is in his assessment of the factual issue of dependency. At paragraph 7 of his decision the FtTJ stated that he was unable to reach the conclusion that the appellant had shown his dependency and the extent of this on the sponsor. However the FtTJ does not appear to have undertaken any assessment of the matters raised in the application and by reference to the documents that had been provided in support. It is unclear from the decision if the FtTJ had the respondent’s bundle before him. By way of example, documents in the respondent’s bundle (at E1) provided documents from transfer wise of money being sent to the appellant. Other evidence in the respondent’s bundle at E5 shows sums of money sent from the name sponsor to the appellant (see payment on 25/2/20 of £200 an 18/12/2019 £297.03. Pages 40 - 41 refer to payments via Western Union in 2020.
12. There were also remittances in the respondent’s bundle from E9-E18, some were undated and other relevant information to appears to be cut off from the documents when uploaded to the CE File. However in the updating bundle sent to the FtTJ for the purposes of the appeal there were further documents purporting to show the money being sent to the appellant and deposited in his bank account via funds transfers with the transfer confirmations from moneywise (p 47 - 56) . There were other documents in the bundle although not very clear to read from the photocopies from pages 57 “Ria financial services and page 62 Ace money transfers.

13. In relation to the appellant's personal circumstances, at F1 of the respondent's bundle there was a calculation of monthly household expenditure. In the bundle provided to the FtTJ at page 22 there was an updated monthly expense schedule where the appellant set out the stated use of the money. In addition there were copies of electricity bills, and although not very clear from the photocopies provided before this tribunal there were similar documents in the respondent's bundle.
14. In addition the appellant set out in a covering letter further evidence as to his circumstances (see letter set out in the respondent's bundle). In that document he stated that he had previously ran a small business (shop) until 2016 and after an accident at work where a large iron gate fell on him and his right forearm was broken, he stated that he rested for 2 to 3 months and later sold the shop as he was not able to maintain the business. It was as a result of the accident that the appellant stated his father began to send him money. In support of his circumstances he provided a doctors letter (p20), and this was referred to in the ECO's decision letter when refusing the application. The applicant provided an affidavit from himself stating that he had a business which he sold.
15. When looking at the decision, the FtTJ does not engage with this evidence when reaching his factual assessment and analysis of the issue of dependency. Instead the FtTJ referred to evidence in the bundle which related to the appellant's 2 daughters who appear to have entered the UK post- application (see paragraph 7 of the FtTJ' decision). As Mr Diwnycz fairly accepted, the FtTJ appeared to be raising a safeguarding concern as to how the appellant and his wife were in Pakistan, but the 2 children had entered the UK which was in error as Mr Diwnycz was able to access the record on the electronic system which was that the children's application was made on 21 April and the appellant's on 28 April and that entry clearance had been granted to the sponsor's grandchildren. Furthermore, where the FtTJ had stated at paragraph 7 that they had joined an "unknown sponsor", that was inaccurate as the visa in the bundle had the sponsor's name on it. It may not have been readily apparent to the FtTJ as the name is not in the position you would expect it to be, however the sponsor's name is clearly stated on the visa. As Mr Diwnycz stated, the FtTJ was not assisted by not having a Presenting Officer and thus was not able to check this against the records held.
16. As the FtTJ had misunderstood the circumstances of the children, this carried on into his assessment at paragraph 8 and his consideration of the sponsor's income. Whilst there may have been some relevant questions concerning how the sponsor was providing for the needs of the household in the changed circumstances since the application, in fairness this had not been raised as a point with the appellant either by the ECO and thus the appellant was not given the opportunity to provide further evidence or explanation before the FtTJ.

17. The same is equally so in relation to paragraph 9 of his decision where the FtTJ addressed the issue of accommodation. Again as Mr Diwnycz rightly pointed out the documents did identify different information as to who was in occupation of the property and who was joining that accommodation. As noted in the grounds of appeal, the inspection report related to information that was provided at the date of the application and the children joined the sponsor on 27 October 2021 after the application was submitted. However, whilst there was some discrepant evidence on the face of the documents, the appellant was not given the opportunity to provide an explanation and in respect of the issue of his wife as the grounds set out, she was not in the same position as other family members she was not classed as a dependent which was a partial answer to the point raised by the FtTJ.
18. In conclusion the FtTJ did not consider the relevant issue of dependency in the light of all the documentary evidence provided and consequently there was no assessment or analysis made by taking into account that evidence and reaching an overall conclusion on this appeal. I am therefore satisfied that the decision of the FtTJ discloses the making of an error on a point of law and therefore the decision is set aside. “

The resumed hearing:

19. At the resumed hearing the sponsor Mr Latif Mohammad attended on behalf of the appellant and Ms Young, Senior Presenting Officer appeared on behalf of the Entry Clearance Officer.
20. At the outset of the hearing steps were taken to ensure that the procedure was explained to the sponsor and that all the necessary documentation was available to all parties. For the purposes of the hearing the evidence was contained in the documentation filed on the CE File, which included the bundle of documents on behalf of the respondent including the decision letter and the documents that were sent for the purposes of the application which included documents from the appellant. The sponsor confirmed that he had paper copies of the documents that he could refer to.
21. In addition a new bundle of documents had been provided by the appellant which contained updated evidence. Ms Young confirmed that she had been served with a copy of the bundle.
22. The sponsor gave his evidence with the assistance of an interpreter in the Pahari language. There were no problems identified with the interpretation and both the interpreter and the sponsor confirmed that they were able to understand each other.
23. In his evidence he confirmed that the appellant was his son. He stated entered the UK in January 2019 and confirmed that he was a citizen of Germany. He was referred to page 115 and there was a document setting out background information relating to his income, he

stated that he had been working in a takeaway in the UK (see page 1 to 2 payslips, page 119 employment letter and old bundle page 38 and 37). The Sponsor confirmed that they were his payslips.

24. He was asked to provide details in his own words as to why he sent money to his son. He stated that it was for spending money in the household and that the money was sent through Western Union. When asked to explain the receipts (page 12 onwards) the sponsor stated that every month he sent a different amount and also the rate differed according to the sterling equivalent. He confirmed that the appellant had no other source of income. He said that his son lived with his wife. As to their daughters, he confirmed that they lived with him and there were entry clearance Visa's granted to them as shown in the documentary evidence.
25. He referred to his accommodation and that he had recently purchased a property that the appellant could live in and handed to the tribunal a document dated 17/5/2023 showing the purchase of the property. Ms Young had no objection to that document being produced. In cross-examination he confirmed that he bought it so the appellant could live in that property and is a 3 bedroomed house; he stated that he could live there as well. He said his grandchildren lived with him at weekends and usually spent the week with his daughter because they were quite young. He confirmed that his daughter lived with her husband but that he did not financially support his daughter but paid for and supported his grandchildren for their needs. When asked in cross-examination to estimate how much he said approximately £200 per month, sometimes more sometimes less. He further confirmed in cross-examination that he did not pay rent for the present property, nor did he pay the bills which were paid for by the owner of the takeaway.
26. In respect of the appellant's circumstances in Pakistan, the sponsor stated that it was difficult to obtain jobs they were very hard to find and there were too many people who are jobless. If he were in the UK he would be able to work in the takeaway. He stated that the appellant had no other source of income and that he was jobless and therefore he relied on the money that he sent him. In cross-examination he was asked about the appellant and the doctor's letter. The sponsor confirmed that it had a problem with his arm and that he could not work but that he was better now. He was asked why the appellant had not tried to obtain employment and the sponsor stated again that it was very difficult to find jobs in Pakistan. He was asked about the appellant's wife's family in Pakistan and whether they supported the appellant and his wife in Pakistan. The sponsor said that they were in even more difficulty (meaning they had little resources to turn to). He said they lived approximately 15 km away. The sponsor was asked about his own wife, and he indicated that she lived in Germany, but she was presently in the UK. He said that she lived with his son and that he did not financially support her, but his son did.

27. He was asked about his payslips and asked why the payment to what appeared to be his pension had stopped in February 2023. The sponsor that he had not realised it had and that there must be a mistake.
28. The conclusion of the evidence each party had the opportunity to provide their closing summary.
29. The summary made by Ms Young is summarised as follows. She submitted she relied upon the original refusal decision. She further submitted that the key question is whether the appellant has demonstrated that the money sent by the sponsor was to meet his essential needs. She submitted that test has not been met on the balance of probabilities. She submitted that there had been money transfer receipts in the updated bundle and in the previous FTT bundle however whilst money had been sent to the appellant by the sponsor in the UK it did not follow that it was being used to meet the appellant's essential needs. She submitted that the sponsor been asked in evidence about the appellant's ability to work and the sponsor said that he could work now but that he did not have a job in Pakistan due to the situation there. She submitted there was nothing from the appellant and the evidence there had been came from the sponsor and should be assessed. She referred to the 2 letters in the bundle (page 148 - page 149) letters written and dated 19/7/20 21. She submitted that the documents are self-serving, and that little weight should be attached to them as the authors were unknown and they were not present in the UK to be cross-examined. She submitted those documents did not add to the appellant's claim.
30. By reference to the updated bundle at page 75, she referred to the monthly expenditure list and the receipts which the appellant had provided. She submitted applying principles of Tanveer Ahmed that weight should not be attached to the documents as they were not translated, and it is impossible to fully understand the content of the documents.
31. In summary she submitted the appellant had not demonstrated that the money sent by the sponsor had been used to meet his essential needs.
32. At the conclusion of the summary, it transpired that the interpreter had not been able to interpret fully the points made by Ms Young and it was agreed that the tribunal's verbatim note of those submissions should be read to the sponsor so that he was able to provide his response. Ms Young confirmed that there had been summarised correctly.
33. The sponsor in his summary asked for the tribunal to take into account the evidence in the bundles and in relation to the appellant's work he relied on pages 147 which related to news articles and the appellant's level of education. He said that the appellant had not been very well educated and had he been so he would be able to get a job.

As to the receipts, he stated that it should be taken into account that the appellant lived in a small village and that there are little shops and people used cash for their goods and not all receipts are provided, and money is used for his necessities. As to the receipts, he said they were not all untranslated and pointed to the bills for electricity and also bills for his food.

34. At the conclusion of the hearing I reserved my decision.

Discussion:

35. When assessing this appeal the following case law is relevant.

36. The Court of Appeal in Latayan v Secretary of State for the Home Department [2020] EWCA Civ 191 stated that dependency is a question of fact and cited the relevant case law at paragraph 23 as follows:

"23. Dependency entails a situation of real dependence in which the family member, having regard to their financial and social conditions, is not in a position to support themselves and needs the material support of the Community national or his or her spouse or registered partner in order to meet their essential needs: Jia v Migrationsverket Case C-1/05; [2007] QB 545 at [37 and 42-43] and Reyes v Migrationsverket Case C-423/12; [2014] QB 1140 at [20-24]. As the Upper Tribunal noted in the unrelated case of Reyes v SSHD (EEA Regs: dependency) [2013] UKUT 314 (IAC), dependency is a question of fact. The Tribunal continued (in reliance on Jia and on the decision of this court in SM (India) v Entry Clearance Officer (Mumbai) [2009] EWCA (Civ) 1426):

"19. ... questions of dependency must not be reduced to a bare calculation of financial dependency but should be construed broadly to involve a holistic examination of a number of factors, including financial, physical and social conditions, so as to establish whether there is dependence that is genuine. The essential focus has to be on the nature of the relationship concerned and on whether it is one characterised by a situation of dependence based on an examination of all the factual circumstances, bearing in mind the underlying objective of maintaining the unity of the family."

37. Further, at [22]

"... Whilst it is for an appellant to discharge the burden of proof resting on him to show dependency, and this will normally require production of relevant documentary evidence, oral evidence can suffice if not found wanting. ..."

38. In Lim v Entry Clearance Officer Manila [2015] EWCA Civ 1383 Lord Justice Elias stated, at[32]:

"In my judgment, the critical question is whether the claimant is in fact in a position to support himself or not, and Reyes now makes that clear beyond doubt, in my view. That is a simple matter of fact. If he can support himself, there is no dependency, even if he is given financial material support by the EU citizen. Those additional resources are not necessary to enable him to meet his basic needs. If, on the other hand, he cannot

support himself from his own resources, the court will not ask why that is the case, save perhaps where there is an abuse of rights. The fact that he chooses not to get a job and become self-supporting is irrelevant.

39. The relevant case law indicates that the support that the EEA sponsor provides only needs to be 'material' or 'necessary' to enable the appellant to meet his essential needs (see Lim, at [25] & [32]).
40. It is clear that the question of dependency must involve a holistic evaluation of a number of factors and must not be a bare calculation of financial dependency.
41. As Ms Young identified in her submissions the issue at the core of this appeal is that of dependency. This question of dependency as set out in the relevant case law summarised above entails a situation of real dependence in that the family member concerned is not in a position to support themselves thus needing the material support of the sponsor in order to meet his basic and essential needs. The burden of proof lies upon the appellant and the standard of proof is the “balance of probabilities.” I have considered the evidence holistically and “in the round” in reaching a decision on the core issues. Tanveer Ahmed v SSHD [2002] Imm AR 318 established the following principles in relation to the assessment of documentary evidence: a) The appellant bears the burden of demonstrating that a document should be relied upon by the tribunal and b) in reaching findings on the reliability of documentary evidence, the tribunal must consider the document in the context of all the evidence. When addressing the evidence, I note that Ms Young did not identify any inconsistencies in the evidence of the sponsor and his oral evidence was consistent with the evidence provided generally, which points to the reliability of that evidence.
42. Ms Young in her submissions indicated that she relied upon the decision letter and the reasons given for refusing the application. It is also right that the appellant has provided his explanatory evidence in both the bundle that was before the FTT and also the new bundle that was filed for these proceedings entitled “objections.” I have therefore considered those issues as raised.
43. The Entry Clearance Officer refused the application on the basis that the appellant had not provided adequate evidence to show that he was dependent on his father, the sponsor, who is a citizen of Germany residing in the UK. The ECO referred to the evidence that had been provided with the application which included money transfers, bank statements, utility bills and receipts. The ECO appeared to accept that the sponsor had provided money transfers to this appellant but had not provided sufficient evidence to demonstrate his circumstances. There was no issue raised in the decision letter as to the sponsor’s income. Ms Young in her cross examination asked a number of questions his outgoings given the change of circumstances and that he was supporting not only his son his grandchildren who were in the United Kingdom.

Having considered the answers that he has given in conjunction with the documentary evidence, I am satisfied on the balance of probabilities that the sponsor is in employment at a takeaway and the income that he receives is set out in the payslips and exhibited in the bundles and it represents the income that he receives. It has increased in 2023 as the payslips set out. The sums of money that the sponsor sends to his son by way of financial remittances are regular sums although they differ in amounts. The sums of money sent can be seen in the sponsor's bank account and there is no suggestion that he is unable to pay those sums. Similarly, he estimated that he spent £200 per month for the support of his grandchildren, and again that is not inconsistent or incommensurate with the salary that he receives.

44. Furthermore, the evidence demonstrates that the sponsor has been sending remittances to his son for a significant period of time. There are copies of the money transfer orders both in the original bundle, the material sent with the application and the further documents that had been provided. The most recent money transfer receipts are exhibited at pages 12 - 46 and cover the period from May 2021 to April 2023. There are receipts from page 50 onwards showing receipts with the sender as the sponsor and the recipient as the appellant. The receipts from RIA (page 50 - 51) show remittances June 2020 - March 2021. ACE receipts from December 2019 and February 2020(p55). There are also Western Union receipts for January and March 2020 (p 56 - 57). Page 60 onwards show money collection receipts with dates July 2022 -March 2021.
45. Furthermore there are bank statements from an account held by the appellant ending 503 from 4 August 2021 - April 2023 (pages 66 - 74).
46. Dealing with the evidence of the remittances sent to the appellant, when looking at the appellant's bank account and looking at the corresponding remittances it is possible to see how that has been achieved. For example, there is a receipt money transfer of £142.80 (p12) to the appellant on April 17, 2023, for 50,215 PKR which is then shown in the appellant's bank account on 18/4/23 (at page 70). There is a receipt money transfer £110 on 31 March 2023, exchange rate provides for 38,321.62 PKR which is shown in the appellant's account at page 69. A similar transfer for January 19, 2023, with a receipt transfer of £142.06 (p.18) corresponds to 40,000PKR shown in the account at page 68. As to others which were less recent, in September 2021, there is a money transfer at page £4431.68 and when this is converted it is 30,000PKR paid into the appellant's account with the corresponding bank statement at page 71. A further example is November 2021 showing the receipt page £4228.50 equating to 30,000PKR paid into the account at page 72. The sponsor's bank statements have also been provided and they show transfers to his son for example page 126 shows EID money of £144; the January 2023 payment to the appellant from the sponsor's account (see page 128) is consistent with the sum shown in the appellant's bank account at page 68.

47. The evidence when taken together above demonstrates that financial remittances have been paid by the sponsor from his account to the appellant. Ms Young in her submissions did not identify or raise any inconsistencies in that evidence.
48. The issue raised by the ECO in respect of the appellant's bank account is that it showed money in his account before the first transfer from the sponsor and therefore the ECO was not satisfied that any funds that the sponsor sent could be accredited to meeting his essential needs.
49. The appellant has provided an explanation and documents in support. He states that following the industrial accident at his business in 2016 his account was frozen, and he did not use it. It was later that he reactivated the account. I have considered whether there is any support for that explanatory evidence. There is no dispute that the appellant provided a letter from his doctor setting out the circumstances of his injury in 2016. This was accepted by the ECO and referred to in the decision letter. The appellant's evidence is supported by a letter from the bank dated 15/7/21 at page 145 stating that the account remained dormant due to the non-operation from 2017 - 2021. There is further supporting evidence from the bank statement itself at page 146 which shows the sum brought forward of 2765PKR with a cash deposit of 100 PKR in April 2021. Having considered that evidence "in the round" I am satisfied on the balance of probabilities that it is supportive of the appellant's explanation for the account and when viewed with the other bank statements show that the sums of money sent by the sponsor is the appellant's only source of income.
50. The ECO also raised the appellant's domestic circumstances as did Ms Young in her closing submissions. The ECO raised a query as to why the appellant needed the support of the sponsor noting that whilst he had provided a doctors letter concerning the accident at work in 2016 and that it stated he could not do heavy lifting work, it did not rule out other work. Ms Young in her submissions submitted that the only evidence available as to why the appellant did not work was from the appellant himself. I have therefore considered the evidence on this issue. The sponsor also gave evidence that the circumstances in Pakistan were different and that jobs were very hard to find and there were many people who are jobless there. In cross-examination he confirmed that his son was not working due to an accident in 2016 and could not do heavy labouring jobs. When asked why he could not obtain employment in Pakistan if he could work, the sponsor replied that it is because there were not many jobs available, and it was very difficult to find a job in Pakistan.
51. The evidence from the appellant on this issue refers to the doctor's letter and that prior to the accident in 2016 he had been involved in a welding business, but it was due to the injury sustained at work that he was unable to keep the business going which was then sold. He provided a copy document relating to the sale of the business. Contrary to the

submissions made on behalf of the respondent, the appellant provided support for his claim to be supported by his father due to his unemployment by providing evidence of his education to intermediate level and his evidence that he lived in a village where job opportunities were limited. There are also letters exhibited at pages 148 and 149 which the appellant provided in support of the application in 2021 from 2 men who live in the village. The letters set out that the appellant is not in employment. I attach limited weight to those documents given that nothing is known about the authors of the letters, nor have they be made available for cross-examination as submitted by Ms Young.

52. In this regard I also take into account the decision in Lim v ECO, Manila [2015] EWCA Civ 1383, Elias LJ (with whom McCombe and Ryder LJ agreed) summarised as follows at [32];

“In my judgement, the critical question is whether the claimant is in fact in a position to support himself or not and Reyes now makes that clear beyond doubt, in my view. That is a simple matter of fact. If he can support himself, there is no dependency, even if he is given financial material support by the EU citizen. Those additional resources are not necessary to enable him to meet his basic needs. If, on the other hand, he cannot support himself from his own resources, the court will not ask why that is the case, save perhaps where there is an abuse of rights. The fact that he chooses not to get a job and become self-supporting is irrelevant..”

53. The evidence before the tribunal demonstrates that the appellant is not supporting himself from his own resources but by payments from the sponsor and the fact that he did not have a job or could have one is irrelevant to the assessment. It has not been raised that there is an abuse of rights. However when viewing the evidence on this issue holistically I find that there is nothing inherently implausible about the appellant’s evidence concerning his circumstances since the injury and his inability to find employment which is supported by the sponsor’s evidence, which I accept as credible, concerning his place of residence and the level of education reached and which is consistent with the appellant’s evidence.

54. Dealing with the issue of essential needs, it is the appellant’s evidence that the financial remittances provided by the sponsor are required to meet his essential needs and included within the evidence are copies of bills and receipts for living expenses. He has provided receipts to show the expenditure and in addition has provided a schedule of outgoings. The appellant provided one before the FTT and also has provided an updated one at page 75. The ECO raised the issue that the electricity bill was in the name of his uncle. The appellant’s evidence on this issue is that the bills are paid in cash and that anyone can pay a bill and that his uncle had moved to the UK and the ownership of the bills was transferred to the appellant and they are still in his name. This is supported by the document at page 156.

55. In assessing the documentary evidence in support of the use of the funds, Ms Young submitted that little or no weight could be attached to the receipts because they were untranslated. However on closer inspection and as the sponsor rightly pointed out there are a number of receipts which are in English for example, p79 shows medical/cosmetics, page 81 shows food shopping, page 82 shows receipts the food shopping, page 83 shows food and grocery store items as does page 84, 85 and 86. Gas cylinder receipts are shown in English at pages 90, 91 and 92 and there are electricity bills at pages 93, 94 and 95 all are in English. I am satisfied that weight should be attached to that evidence and that it is reliable evidence as the evidence of the appellant's expenditure which in April 2021 said was said to be between 25,000- 35000 PKR (see P22 of old bundle) is consistent with the sums of money paid into his account by the sponsor to meet those essential needs.
56. Drawing together those issues, I am satisfied that when the evidence is viewed "in the round" it demonstrates on the balance of probabilities that the appellant is not supporting himself from his own resources but by money transfers and remittances sent by his father, the sponsor, and that the money which the sponsor sends is used by the appellant for his essential needs as demonstrated by the receipts and outgoings which include the payment of household expenses and bills payable for the accommodation he lives in.
57. Therefore I am satisfied on the balance of probabilities that the appellant has discharged the burden of proof on him to demonstrate that he is dependent upon his EEA sponsor and that this is because he is presently unable to support himself and is in receipt of financial remittances which is sent by way of support so that he can meet his essential needs.
58. The appeal is therefore allowed.

Notice of Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law; the decision is set aside.

The appeal is remade as follows: the appeal is allowed.

Upper Tribunal Judge Reeds
Upper Tribunal Judge Reeds

26/5/23