



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003503

First-tier Tribunal No: EA/50312/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:

25th October 2023

Before

UPPER TRIBUNAL JUDGE LANE

Between

Waqas Ahmed Saeed
(NO ANONYMITY ORDER MADE)

Appellant

and

Entry Clearance Officer

Respondent

Representation:

For the Appellant: Mr Badar

For the Respondent: Mr McVeety, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 6 July 2023

DECISION AND REASONS

1. The appellant, a male citizen of Pakistan, applied for an EEA family permit to join his EEA sponsor (Ms Quratul-Ain Saeed - his sister) in the United Kingdom. This application was refused on 24 August 2020. The appellant appealed to the First-tier Tribunal which dismissed his appeal. The sole issue before the Tribunal was whether the appellant satisfied or failed to meet Regulation 8 of the Immigration (European Economic Area) Regulations 2016('Regulations'). In short, the sole issue in contention was that whether the Applicant was dependant on the Sponsor.
2. There are three grounds of appeal. First, the appellant contends that the judge failed to view the matter of dependency in the round and in accordance with *Reyes (EEA Regs: dependency) [2013] UKUT 00314*, in particular at [19]:
 19. From the above, we glean four key things. First, the test of dependency is a purely factual test. Second, the Court envisages that questions of dependency must not be reduced to a bare calculation of

financial dependency but should be construed broadly to involve a holistic 1 It is submitted that this extract is undisturbed by *Lim v Entry Clearance Officer Manila* [2015] EWCA Civ 1383 Page 3 of 7 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. It seems to us that the need for a wide-ranging fact-specific approach is indeed enjoined by the Court of Appeal in *SM (India)*: see in particular Sullivan LJ's observations at [27]-[28]...

3. The appellant submits that the judge focused excessively on financial dependency and failed to consider the wider context where the facts were that the appellant considered his sister as a mother figure, noting the same at [21] ('the Applicant has always been reliant on his sponsor sister, and she has always treated him like a son.')
4. The problem for the appellant is that the judge's remarks at [21] are not findings of fact. At [21], the judge is simply summarising the appellant's evidence, including what he has said about his relationship with his sister. There is no finding in the decision to the effect that the emotional ties between the appellant and sponsor are in any way unusual. Accordingly, I accept Mr McVeety's submission that, on the facts as found by the judge, there was nothing in the relationship between the appellant and the sponsor which, in the absence of reliable evidence of financial dependency, would assist in establishing dependency for the purpose of the regulations. As Mr McVeety submitted, *Reyes* is not engaged at all let alone misapplied. Moreover, the judge did not accept that the appellant had discharged the burden of proof upon him in the appeal. I reject Mr Badar's submission that the respondent has not challenged the credibility of the appellant's application and evidence, thereby obliging the Tribunal to accept it as sufficient; it is a challenge to the evidence for the respondent to assert that the evidence adduced is insufficient, a view which the Tribunal, citing reasons supported by detailed reference to the evidence, firmly endorsed. In the circumstances, Ground 3 fails to identify an error of law in the judge's decision.
5. The second ground is also without merit. The challenge is one of perversity on the part of the judge. It was open to the judge [28] to question the largely unsupported claim of the appellant that his sponsor owns a property in Pakistan where the appellant's parents also live. It was open to the judge, on the evidence, to query that the parents would not own their own home in Pakistan. It is not reasonable to characterise the judge's concerns as perversity. Moreover, in a series of detailed findings referring closely to the evidence, the judge essentially rejected the credibility of the evidence put forward by the appellant and sponsor as to their rental arrangements in the United Kingdom [29]. Having rejected the reliability of a major part of the evidence, it was manifestly open to the judge to conclude that the burden of proof had not been discharged.
6. I find that the decision of the First-tier Tribunal is free of legal error and shall stand. The appeal of the appellant is dismissed.

Notice of Decision

This appeal is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22 September 2023