



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2024-003638

First-tier Tribunal No:
HU/52803/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 19 November 2024**

Before

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR
DEPUTY UPPER TRIBUNAL JUDGE IQBAL**

Between

**Syed Ali Hassan
(NO ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Alam, Counsel, instructed by Legal Chambers Solicitors

For the Respondent: Mr S Walker, Senior Presenting Officer

Heard at Field House on 14 November 2024

DECISION AND REASONS

Introduction

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Easterman (“the Judge”), promulgated on 21 December 2023, following a hearing on 11 October of that year. By that decision,

the Judge dismissed the Appellant's appeal against the Respondent's refusal of his human rights claim, a claim which had been made in the context of an application for entry clearance to join family members in the United Kingdom. That application had been made on 11 October 2022 and the resulting refusal was issued on 9 February 2023.

2. In refusing the human rights claim, the Respondent considered paragraph 297 of the Immigration Rules and concluded that the Appellant's mother (who had indefinite leave to remain in the United Kingdom) did not have sole responsibility for his upbringing, nor were there any serious and compelling family or other reasons. Further, the Respondent concluded that the decision to refuse was not disproportionate in all the circumstances.

The Judge's decision

3. Both parties were represented before the Judge. The Appellant's mother and father attended and gave evidence. The Judge recorded that the sole responsibility issue was not being pursued by the Appellant: [28]. The Judge's findings begin at [39]. At a number of points in his assessment, the Judge noted the absence of any, or any detailed, evidence relating to the Appellant's circumstances in Pakistan at relevant times, including the point at which the application was made and the period leading up to the date of hearing. The Judge concluded that there were no serious or compelling family or other reasons with reference to paragraph 297(i)(f).
4. The Judge then concluded that there was in fact no family life as between the Appellant and his parents, with reference to Article 8(1).
5. At [55], the Judge reached an alternative conclusion that even if there was family life, the Respondent's decision was not disproportionate.
6. Accordingly, the appeal was dismissed.

The grounds of appeal

7. The concise grounds essentially make the following points. *First*, the Judge had failed to adequately consider the possibility that if all family members had made the applications for entry clearance at the same time, it was "possible" that the Appellant would have left Pakistan together with them and that paragraph 297(c) would have been satisfied.

In turn, this would probably have led to the Appellant succeeding. *Second*, it is said that the Judge failed to make “any clear findings” as to whether the Appellant had been living with family members (specifically the father and siblings) before they left Pakistan during 2023, leaving him and his adult sister behind. That issue was relevant to the existence of family life. *Third*, it is said that the Judge made no findings as to whether the Appellant had been financially supported by his family in this country. Such support was also a factor relevant to assessing whether there was family life.

The grant of permission

8. The First-tier Tribunal refused permission, but on renewal, it was granted by the Upper Tribunal on all grounds.

The hearing

9. At the error of law hearing we received helpful submissions by Mr Alam and Mr Walker, all of which are a matter of record. Mr Alam emphasised that the reason why the entry clearance applications were not all made together at the same time was due to financial constraints on the family. The Appellant’s application had been made in October 2022, but the other family members had applied some five or six months later. That was not the Appellant’s fault. Mr Alam submitted that this factor went not only to the existence of family life but also to the proportionality assessment. He confirmed that the Appellant’s sister, who had remained with him in Pakistan, was an adult at all material times. Mr Alam reiterated the argument that the Judge had failed to make a clear finding as to who the Appellant had been living with prior to the father and other siblings leaving Pakistan during the course of 2023, and there was also a failure to make clear findings on the question of financial support.
10. In regard to the evidence relating to the Appellant’s circumstances which was before the Judge, Mr Alam confirmed that the only aspects of this which he was able to point to was that contained in [5] and [12] of the mother’s witness statement and that recorded in the last sentence of [21] of the Judge’s decision. He emphasised that the question of financial support was relevant to both the existence of family life and proportionality.
11. Mr Walker submitted that the Judge had been entitled to conclude that there was a lack of evidence in support of the Appellant’s case. He

made specific reference to [45] of the Judge's decision. The evidence, he submitted, was "scant". All-told, there were no material errors.

12. At the end of the hearing, we reserved our decision.

Conclusions

13. We emphasise the need for appropriate judicial restraint before interfering with a decision of the First-tier Tribunal, particularly where the fact-finding Judge has considered evidence from a variety of sources and has undertaken an evaluation of it, set in the applicable legal framework. We remind ourselves that no decision will be perfect, that such decisions must be read holistically and sensibly, and that there is no requirement to give reasons for reasons.

14. With all of this in mind, we conclude that the Judge did not materially err in law. That conclusion is based on the following reasons.

15. In relation to the first ground, the Appellant's contention is entirely hypothetical and based on speculation. The fact that the word "if" appears in the ground itself is indicative of this. It may have been the case that "if" all family members had applied at precisely the same time, the Appellant *might* have been granted entry clearance. However, the Judge had to deal with the factual circumstances as they stood. Those circumstances included the undisputable fact that the applications had *not* been made at the same time. We would observe that even if they had been, there was no certainty (or even a high likelihood that the Appellant would have successful, although that is in a sense beside the point). The fact that the applications were not made at the same time due to financial restraints was a matter acknowledged by the Judge in his decision. Those financial circumstances were not of course the fault of the Appellant as such, but in no way could that issue come close to being described as any form of historical injustice or a factor to which significant weight could rationally have been attached. There were no other surrounding circumstances which could in any way have elevated that factor any reasonable judge could have attached material weight: on the evidence before the Judge, the Appellant was living in a stable environment, together with his adult sister and other relatives; there was no issue as to any health problems; and, as we will return to below, the evidence about the Appellant's circumstance was in general very thin indeed. The first ground of appeal is not made out.

16. In relation to the second ground of appeal, it is obvious from a sensible reading of the Judge's decision that he had implicitly accepted that the Appellant was living together with his father and siblings before they left Pakistan in 2023. There was no suggestion within the decision that this was not the case. That the Judge did not make such a finding in express terms does not disclose an error of law. In turn, it cannot be said that the Judge simply left this aspect of the case out of account when considering the existence of family life and/or proportionality. This aspect of the second ground of appeal is not made out.
17. As to financial support and the third ground of appeal, the Judge was plainly entitled to regard the absence of any, or at least any detailed, evidence as being significant. In particular, he was entitled to note that the absence of any witness statement from the Appellant himself and the paucity of detail in the witness statements from the Appellant's mother and father, was a relevant matter in his assessment of both Article 8(1) and Article 8(2).
18. Mr Walker referred us to [45] of the Judge's decision, where it is said that there was "no evidence of what it costs to support the Appellant in Pakistan, nor is there clear evidence of whether that can be done on the earnings of his parents or not, given whatever their commitments might be in the United Kingdom." What the judge said at [53]: there was no reliable evidence as to how the Appellant studies were being, or how long such support might have continued. The only evidence that Mr Alam has been able to point to, as mentioned previously, is extremely brief references in the mother's witness statement to the Appellant being her "dependant" and a vague reference to money being transferred remotely within [21] of the Judge's decision. Neither of these provide any basis for establishing an error of law on the Judge's part. Indeed, they only go to reinforce his sustainable conclusion that there was a dearth of evidence on relevant issues, going to, amongst other matters, financial support. The third ground of appeal is not made out.
19. We also note the Judge's reference to the absence of evidence relating to emotional support at [51].

20. In light of the above, in the first instance we conclude that the Judge did not materially err in finding that there was no extant family life as between the Appellant and his parents.
21. Even if the Judge had erred in that regard, his alternative assessment of proportionality, beginning at [55], is sound. The Judge was entitled to conclude that the Appellant could not satisfy the Rules. The Judge took into account that the other family members had made a choice to come to the United Kingdom and leave the Appellant behind, as his application had been refused before theirs had been granted. Further, what the Judge has said in the final paragraphs of his decision must of course be read in the context of what preceded that. This included his adverse views on the absence of relevant evidence.
22. In summary, the Judge did make relevant findings, took all relevant considerations into account, gave adequate reasons, did not misdirect himself as to the law, applied the facts to the law, and reached rational conclusions.
23. It follows that the Appellant's appeal to the Upper Tribunal must be dismissed.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error of law and that decision shall stand.

The appeal to the Upper Tribunal is dismissed.

**H Norton-Taylor
Judge of the Upper Tribunal
Immigration and Asylum Chamber**

Dated: 15 November 2024