



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/34028/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
on 15 September 2015**

**Decision & Reasons Promulgated
On 17 September 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

SADAF AZIZ

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K H Forrest, Advocate, instructed by LKW, Solicitors

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan, born on 8 March 1980. She appeals against a determination by First-tier Tribunal Judge McGavin, dismissing her appeal against refusal of leave to remain as the wife of Kashif Ather (her partner and sponsor, in the language of the Immigration Rules).
2. The main thrust of the grounds of appeal is that the judge decided whether the financial requirements of the Rules were met in terms of their very prescriptive requirements about evidence, which is an error because the correct approach is to follow not the letter but the spirit of the Rules, and to consider whether the public policy objectives of adequacy of income are broadly met.
3. Although those points were pursued in some detail in the grounds and submissions, it is sufficient to say that in principle the approach advocated

for the appellant is incorrect. The Rules make detailed requirements, which are met by specified evidence or not at all. As submitted by the Presenting Officer, the Rules are not the equivalent of statute but they are an expression of policy and of the public interest asking for evidence to be supplied in particular forms. The judge was not only “technically” correct in saying that these requirements were not met.

4. Mr Mullen also pointed out that the judge in fact went through the evidence in some detail, a task not made easy for her by the way in which it was presented, and found no way to reconcile the claims made by the appellant and the sponsor with the bank account statements and other written evidence presented. I agree also with that submission. The determination clearly explained why evidence of income in respect of rental, employment and dividends fell short of what was required.
5. There is no authority for the First-tier or Upper Tribunal being enabled to take a broad and purposive approach to the financial and evidential requirements of the Immigration Rules.
6. Even if there had been some scope for technical relaxation, the appellant would have to overcome the adverse credibility findings. The grounds criticise these, but on no substantial basis. The judge explained in detail why she found the sponsor’s evidence unsatisfactory, in particular at paragraph 17. She explained why the appellant’s evidence was also unsatisfactory, in particular at paragraph 18. She found her evasive, self-contradictory and unco-operative. She gave specific and illustrative examples. Her conclusion that she can place little reliance on the evidence of the appellant is well justified. No legal error in it has been shown.
7. The third aspect of the appeal to the Upper Tribunal, pressed only faintly, was in relation to Article 8 of ECHR. It was common ground that if the financial circumstances of the sponsor and appellant are in general as claimed, there should in principle be no difficulty in their assembling a properly vouched fresh application to the respondent. That can be done without the appellant leaving the country. The requirement to comply with usual procedures is in no way disproportionate. Although the judge considered the Article 8 aspect in respect of the sponsor being required to relocate to Pakistan, there is no reason to find that any disruption would go nearly that far.
8. The appellant has not shown that the making of the decision of the First-tier Tribunal involved the making of any error on a point of law. The determination of the First-tier Tribunal **shall stand**.
9. No anonymity direction has been requested or made.



Upper Tribunal Judge Macleman

15 September 2015