



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

Appeal Number: IA/30241/2015

THE IMMIGRATION ACTS

**Heard at City Centre Tower Decision & Reasons
Birmingham Promulgated
On 14th July 2017 On 3rd August 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**JAGTAR SINGH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr B Singh, Counsel instructed by SMG Solicitors
For the Respondent: Mrs H Aboni, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a male citizen of India born on 25th April 1986. He first arrived in the UK on 10th June 2006 when he was given leave to enter for a short period as a work permit holder. The Appellant did not depart, and eventually after two unsuccessful applications for leave to remain, on 27th

February 2015 he again applied for leave to remain on the basis of his family and private life. That application was refused on 27th August 2015 for the reasons given in the Respondent's letter of that date. The Appellant appealed, and his appeal was heard by First-tier Tribunal Judge Broe (the Judge) sitting at Birmingham on 3rd November 2016. He decided to dismiss the appeal for the reasons given in his Decision dated 13th November 2016. The Appellant sought leave to appeal that decision, and on 28th April 2017 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Judge dismissed the appeal because he found that the Appellant could not qualify for leave to remain within the Immigration Rules as an overstayer. That decision has not been challenged in this appeal. As the Judge stated at paragraph 20 of the Decision, the issue before him therefore was whether there were grounds to grant the Appellant leave to remain outside the Immigration Rules. The Judge was satisfied that the Appellant had a genuine and subsisting relationship with his wife, the Sponsor Kiran Bala, a British citizen. However, the Judge found at paragraph 27 of the Decision that there were not any grounds to consider the Appellant's Article 8 ECHR rights outside the Immigration Rules.
4. At the hearing, Mr Singh argued that the Judge had erred in law in coming to this conclusion. He referred to the reasons given for the grant of permission and submitted that the Judge had given insufficient reasons for his conclusion at paragraph 24 of the Decision that there were no insurmountable obstacles to the Appellant returning to live in India. Further, the Judge had failed to attach sufficient weight to the evidence that the Appellant's return to India would result in a disruption of the Sponsor's medical treatment for infertility, and for that reason the Judge had erred in finding that there were no exceptional circumstances. Overall, the Judge had given insufficient reasons for his decision.
5. In response, Mrs Aboni referred to the Rule 24 response and submitted that the grounds of application amounted to no more than a disagreement with the decision of the Judge. The Judge had carefully analysed all the relevant evidence and had made clear findings for which he had given sufficient reasons. The Judge had dealt with all the issues in the case in paragraphs 20 to 26 inclusive of the Decision. In particular, the Judge had noted that the Sponsor's treatment for infertility had not commenced. The Judge had clearly demonstrated that he had carried out the balancing exercise necessary for any assessment of proportionality.
6. I find no material error of law in the decision of the Judge which I therefore do not set aside. The Judge wrote in paragraph 20 of the Decision that the issue before him was whether there were grounds to consider the Appellant's Article 8 ECHR rights outside the Immigration Rules. The Judge

then comprehensively analysed all the relevant evidence before coming to his conclusion at paragraph 27 that there were no such grounds. It is clear from what the Judge wrote that he found no exceptional circumstances which had not been considered under the Immigration Rules. In particular, the Judge dealt with the Sponsor's medical treatment at paragraph 25 of the Decision. I agree with the submission of Mrs Aboni that the grounds of application amount to no more than a disagreement with the decision of the Judge.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside that decision.

The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and indeed find no reason to do so.

Signed

Date 3rd August 2017

Deputy Upper Tribunal Judge Renton