



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/21516/2016

THE IMMIGRATION ACTS

Heard at Bradford
On 10th July 2018

Decision & Reasons Promulgated
On 18th July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

GHOSIA BI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ishtiaq Ali, WH Solicitors
For the Respondent: Ms R Pettersen

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Moxon made following a hearing at Bradford on 22nd August 2017.

Background

2. The appellant is a citizen of Pakistan born on 19th July 1995. She applied for entry clearance to join her spouse but was refused on 9th August 2016 on the grounds that she had failed to satisfy the financial requirements of the Immigration Rules which require the sponsor to have an income of £18,600 per annum.
3. It is the appellant's case that her husband is employed by DCS9 Consultants Limited and earns a salary of £19,000 per annum. In support of this assertion the sponsor provided pay slips, which the Immigration Judge noted matched payments into the sponsor's bank account. He also accepted that the employer was clearly a genuine business and he gave weight to letters from him. Moreover there was confirmation of the sponsor's employment from HMRC. There were also references from customers.
4. Set against this, the judge noted that there was a discrepancy about information given to the entry clearance assistant as to whether the sponsor worked weekends or whether he sometimes worked Saturdays and whether the sponsor was coming into work at 12pm on a particular day or whether he was having the full day off.
5. He dismissed the appeal.
6. The appellant sought permission to appeal on the grounds, effectively, that the judge's decision was perverse.
7. Permission to appeal was granted by Judge Andrew on 6th March 2018.
8. Ms Pettersen said that she could not defend this determination.

Findings and Conclusions

9. The judge appears to have lost sight of the correct standard of proof.
10. The prima facie evidence complies with all of the requirements of the Rules as set out in Appendix FM-SE.
11. The evidence of the wages being paid into the bank account in particular makes it difficult to conceive of an alternative explanation, other than an elaborate fraud, to the sponsor being employed as he claimed. And there is no proper basis upon which to conclude that there was such fraud in this case.
12. There was clear room for error in relation to the telephone call by the entry clearance assistant, who did not provide any contemporaneous note of his conversation or even a signed statement. That is particularly difficult here because the judge appears to have placed considerable weight upon the fact that the appellant's employer did not attend to give evidence himself.

Notice of Decision

The original judge erred in law because his decision was against the weight of the evidence. His decision is set aside. It is remade as follows. The appellant's appeal is allowed.

No anonymity direction is made.

Deborah Taylor

Signed

Date 14 July 2018

Deputy Upper Tribunal Judge Taylor