



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

**Appeal Number: UI-2022-005168**  
on appeal from EA/06752/2021

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 20 December 2022**

**Decision & Reasons Promulgated  
On 24 February 2023**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**ADNAN SAJID  
[NO ANONYMITY ORDER]**

Appellant

**and**

**ENTRY CLEARANCE OFFICER  
ABU DHABI (LAHORE)**

Respondent

Representation:

For the appellant: Sponsor in person

For the respondent: Ms Alexandra Everett, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 14 March 2022 to refuse him an EEA family permit pursuant to Regulations 8 and 12 of the Immigration (European Economic Area) Regulations 2016 (as saved).
2. The appellant's appeal arises out of the same factual matrix as that advanced by his mother, father and sisters in a hearing in February 2022

in which their appeals were linked. It is not clear to me why the appellant's appeal was not linked to those of the rest of his family.

3. **Mode of hearing.** The hearing today took place face to face. The appellant was assisted by an Urdu interpreter and both appellant and interpreter confirmed that they could understand one another.

## **Background**

4. The appellant is a citizen of Pakistan. He was born in December 2003 and so is 19 years old. He is still a student and has never been in employment.
5. The appellant seeks entry clearance as the extended family member of his maternal uncle, Muhammad Shakeel Jan, who is a citizen of Spain of Pakistani origin. That is not disputed. Mr Jan settled in the UK in September 2020.
6. The appellant lived in Pakistan with his mother, who is the sponsor's sister, her husband, and his two siblings. His grandmother previously also lived with the family but she joined the sponsor in the UK before the rest of the family.
7. The appellant's mother did not work. They lived in a village and there was no work for her there. His father had worked as a labourer but had high blood pressure, a heart condition, and had gained weight. He had not worked during the pandemic but normally he worked as a labourer, sometimes. When he had no work, the sponsor helps support the family.
8. The sponsor sent money transfers, first to the appellant's grandmother, and then to his mother. The money was used to pay for food, school fees, travel to and from school and college, and medical fees. The family income was very low, and things were expensive in Pakistan.
9. The appellant's grandmother, his parents and his sisters now all have the right to enter the UK and settle her. His grandmother has already done so and the rest of the family can be expected to come soon if they are not already here.

## **First-tier Tribunal decision**

10. The appellant's appeal was heard by CVP at Taylor House on 29 November 2021 and promulgated on 29 December 2021. The sponsor attended the virtual hearing, but the respondent was not represented. The appellant remains in Pakistan.
11. The appellant provided the Judge with a 96-page bundle of evidence, on the day of the hearing. The First-tier Judge rose to read it. Having heard the sponsor's oral evidence, he was satisfied that the sponsor was a credible witness, albeit he did not know much about his brother-in-law's

employment history or income. There was evidence of the money being received and of it being spent on school fees for the appellant and on food.

12. The First-tier Judge did not accept that the money was being used to meet any of the appellant's essential needs, speculating without evidence that 'monies received from the appellant's father's employment would be used to support the appellant and for that reason the other children'.
13. The First-tier Judge dismissed the appeal.
14. The appellant appealed to the Upper Tribunal.

### **Permission to appeal**

15. The appellant drafted his grounds himself and as a result, they are not as clear as they might be. Permission to appeal was granted in the following terms:

"2. While the grounds of challenge are difficult to follow, I am satisfied that the reasons for the decision are arguably inadequate. There is arguably a contradiction in the Judge's statements in paragraph 30. The Judge accepts the evidence of money being received to support the appellant in respect of school fees, and accepts that school fees are paid for the appellant, yet despite this, finds that there is no significant evidence to link the money being received to the monies being spent to meet the appellant's essential needs.

3. The Judge also has arguably failed to consider the situation of the family as a whole, and whether the household, of which the appellant is a member, require and receive support to meet their essential needs."

### **Rule 24 Reply**

16. There was no Rule 24 Reply on the respondent's behalf.
17. That is the basis on which this appeal came before the Upper Tribunal.

### **Other appeals by appellant's family members**

18. By a decision on 10 February 2022, two months after the decision in the appellant's appeal, the appellant's other family members succeeded in their appeals: see EA/09061/2021, EA/06742/2021, EA/06706/2021, EA/06796/2021 and EA/06612/2021. The Judge heard the sponsor's evidence, which was given orally without a witness statement, and included more details of the sponsor's immigration history. There are more details, but the account, and the evidence, are the same. The First-tier Judge in the February 2022 appeals found the sponsor to be a reliable witness.
19. The respondent did not dispute that money had been sent to the family by the sponsor, regularly every month, or that all four children's school fees

were being paid every month. There were grocery receipts, supported by a letter from the shop owner, and a letter from a local councillor confirming that the appellant's mother and father, the first and second appellants in that appeal, lived in his constituency and were without employment, property or pension, and supported by the sponsor, who was known to the person making the statement.

20. There were also bank statements in the sponsor's name for the period November 2020 to March 2021, wage slips from his Spanish employers, and an employment contract for his current work as a cleaner.
21. The Judge accepted that the sponsor was continuing to send regular payments, first to his mother, but latterly, to his sister. The decision concluded as follows:

“24. As to whether the money being sent is necessary to meet the essential daily needs of the appellants, the sponsor said that he did not know what his sister and her family would do without it. He said that they had no employment and that the children were all in full-time education; there is documentary evidence supporting both these points. This is the central part of the appeal which the appellants have to prove and I find on balance that they have done so.

25. The 2016 Regulations do not require evidence that a sponsor will continue to be able to afford to provide support into the foreseeable future, but in any event, I am satisfied on balance that the sponsor can afford the money he has been sending to the appellants.

26. For these reasons, I find that the appellants have discharged the burden of proof and I am satisfied that they are dependent on the sponsor as required by Regulation 8.”

### **Upper Tribunal hearing**

22. For the respondent, Ms Everett stated that she had no instructions to concede the appeals but recognised that similar facts should lead to similar outcomes. She was not able to identify any reason why the two decisions, based on exactly the same factual matrix, should lead to different outcomes.
23. I concur. The evidence before the second Tribunal is more detailed, but is the same as that before the First-tier Tribunal in this appeal. The evidence of dependence is there, and furthermore, as the rest of his family have been given entry clearance to join the sponsor, the appellant would be left in Pakistan alone if his appeal led to a different outcome.
24. The appellant's contention that paragraph 30 of the First-tier Judge's decision is internally inconsistent has force and merit. I set aside the decision of the First-tier Tribunal and allow the appeal outright.

**DECISION**

25. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. I remake the decision by allowing the appellant's appeal.

Signed [Judith AJC Gleeson](#)  
December 2022

Date: 21

Upper Tribunal Judge Gleeson