



Customer.Service@hmcts.gsi.gov.uk
(For General Enquiries Only)
www.tribunals.gov.uk
Arnhem Support Centre
P O Box 6987
Leicester
LE1 6ZX
Ph: 0300 123 1711
Fax: 0116 249 4192
Minicom: 0845 606 0766

Qazi Law Associates
#3 Block 14-E
Ayub market F-8 Markaz
Islamabad
PAKISTAN

Date : 30 April 2014



THE IMMIGRATION ACTS

Appeal No: VA/15255/2013
Appellant: Mr Kamran Zafar
Respondent: Visa Officer

HO Ref:
Port Ref:
FCNumber: 1020884
Reps Ref: QLA.ISB.PK/1020884.2
13

To the Appellant and Respondent

Enclosed is the First-tier Tribunal's determination of the above appeal.

Either party may apply to the First-tier Tribunal for permission to appeal to the Upper Tribunal on a point of law arising from the First-tier Tribunal's decision.

Any application must be made in accordance with the relevant Procedure Rules and must be made within 5 days of receipt of this determination, except where the Appellant is outside the United Kingdom, in which case any application by the Appellant must be made within 28 days of receipt of this determination.

All applications must be sent to:

First-tier Tribunal:

Loughborough Support Centre, PO Box 7866, Loughborough, Leics, LE11 2XZ

Clerk to the First-tier Tribunal

Copy issued to Appellant: Mr Kamran Zafar,
Copy issued to Home Office: Presenting Officers Unit, Presenting Officers Unit Manche
6DX



**ALL CORRESPONDENCE SHOULD BE SENT TO THE ADDRESS AT THE TOP OF THIS NOTICE QUOTING
THE APPEAL NUMBER AND ANY HEARING DATE**



IAC-PE-AW-V1

First-tier Tribunal
(Immigration and Asylum Chamber)

Appeal Number: VA/15255/2013

THE IMMIGRATION ACTS

Heard at Manchester
On 17th April 2014

Determination Promulgated

.....30/4/14.....

Before

JUDGE OF THE FIRST-TIER TRIBUNAL BRUNNEN

Between

KAMRAN ZAFAR
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER - ABU DHABI

Respondent

Representation:

For the Appellant: Mr Imran Zafar, the Sponsor
For the Respondent: Mr Tan, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a citizen of Pakistan. He was born on 16th May 1983.

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2. The Appellant applied for entry clearance to enable him to make a family visit to the United Kingdom. His application was refused on 27th June 2013. He has appealed pursuant to Section 82(1) of the Nationality, Immigration and Asylum Act 2002.
3. No application for anonymity has been made in this appeal. I find no reason to make a direction for anonymity.
4. The Appellant appeals on the ground that the Respondent's decision was not in accordance with the Immigration Rules. The relevant provisions are to be found in paragraph 41. The burden lies on the Appellant to show on the balance of probabilities that he satisfies all of the requirements of that paragraph.
5. I must determine whether the Respondent's decision was correct at the time when it was made. In so doing I can consider only the circumstances appertaining at that time. However, this does not preclude me from considering evidence as to the circumstances as they then were, even if such evidence was not presented to the Respondent before the decision was made.
6. I have considered the documentary evidence contained in the Respondent's bundle, attached to the Notice of Appeal and in the Appellant's appeal bundle. I heard oral evidence from the Sponsor, who is the Appellant's brother Imran Zafar. I heard oral submissions from Mr Tan and from Mr Zafar. I reserved my decision.
7. The Appellant is a married man with two children born in 2011 and 2012. He says that he is self-employed in a property business. He inherited the business from his father. He receives rents from investment properties and also deals in property. He said on his application form that he wished to come to the UK for six to eight weeks to visit the Sponsor. He would pay for his own travel. The Sponsor would provide for his board and lodging.
8. The Respondent was satisfied that the Sponsor was able to provide adequately for the Appellant during the intended visit. However the Respondent was not satisfied as to the Appellant's financial circumstances. The reason the Respondent gave for this was that the Appellant's bank statement showed a number of large deposits shortly before his application was made and these deposits, which were not consistent with his stated income, had not been explained. The Respondent was not satisfied that the funds in the account were at the Appellant's disposal. The Respondent was therefore not satisfied that the Appellant was a genuine visitor who intended only to make a short visit to the UK and then to leave. The Respondent was also not satisfied that the Appellant could meet the cost of his return or onward journey.
9. The bank statement produced by the Appellant is from his account with the Habib Bank and covers the period 1st December 2012 to 31st May 2013. There was a closing balance of Rs501,555. The deposits the Respondent questioned were made between 22nd April and 31st May. The Respondent said that they added up to almost Rs500,000. In fact they came to Rs439,500. If two deposits made earlier in April were included they would come to Rs489,500.

10. The Grounds of Appeal are inordinately lengthy and bombastic, for example describing the Respondent's concerns as "baseless, frivolous and vexatious" and the Respondent's decision as based on "surmises and conjectures". The grounds are more helpful where they list the property the Appellant says he owns and his family circumstances. They also provide explanations for the deposits the Respondent called into question.
11. An Entry Clearance Manager's review says that the Appellant has not provided any specific reasons for contending that the Respondent's decision was not in accordance with the Immigration Rules. This is plainly not the case. The Appellant has provided detailed reasons and one is left wondering whether the ECM considered them at all.
12. The grounds explain that the bank deposit of Rs300,000 on 24th April 2013 was derived from the return of a deposit the Appellant had put down to reserve a building plot. His deposit was Rs360,000. The refund, after deduction of cancellation charges, was RS306,000, of which the Appellant deposited Rs300,000 in this bank account.
13. The Appellant explains that deposits of Rs50,000 on 14th May 2013 and Rs40,000 on 28th May 2013 were both derived from the commission he earned on a property transaction. He was paid Rs100,000 on 14th May. Although the Appellant does not say so, the implication is that he deposited Rs50,000 of this on 14th May and transferred another Rs40,000 from a different account on 28th May. The explanation and paperwork to support it are incomplete.
14. The Appellant explains that cash deposits of Rs27,500 and Rs22,000 both on 31st May 2013 were derived from the commission he received on another property deal. He has produced a letter from a client which says he was paid Rs50,000 in cash on 14th May. As Mr Tan pointed out, it is odd and unexplained that the Appellant deposited two separate sums in cash on the same day if they both came from the same source.
15. Although the explanations given by the Appellant are not entirely satisfactory I do not see anything remarkable in these deposits. The Appellant made deposits of Rs1,039,000 in December 2012. He also withdrew Rs1,000,000 in the same month. In January 2013 he withdrew Rs104,000 but made no deposits. In March 2013 he deposited Rs100,000 and withdrew Rs16,000. In the two months that caught the attention of the Respondent not only did he deposit Rs489,000 but he also withdrew Rs124,000. These are the sorts of movements of funds to be expected in the bank account of a businessman dealing in property. For the Respondent to say that the deposits are not consistent with the Appellant's claimed monthly income is to ignore the fact that the figure he has stated for his monthly income is an average and it is to be expected, given the nature of his occupation, that there will be very considerable fluctuations in the amount received each month.
16. With regard to the Appellant's family circumstances, the Appellant has produced his family registration certificate to show that he has two young children. He says his

widowed mother lives with him and this was confirmed by the Sponsor. The Sponsor also told me that the Appellant has two other brothers living in Rawalpindi. The Sponsor told me the Appellant lives very well in Pakistan. He has two domestic servants. He would have no reason to give up his comfortable life in order to stay illegally in the UK. Although the Appellant had said he would stay for six to eight weeks, the Sponsor thought that he would now only stay for about three weeks because he has embarked on a new construction project. He had only decided to come at all because the Sponsor had asked him to do so.

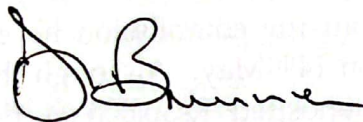
17. I accept the evidence of the Sponsor as truthful. I am satisfied that the Appellant does intend to make a genuine visit and then to return to Pakistan. I am satisfied that he has the means to pay for his return journey. For all these reasons I find that the Respondent's decision is not in accordance with the Immigration Rules.

Decision

The appeal is allowed.

No anonymity direction is made.

Signed



Date: 24 April 2014

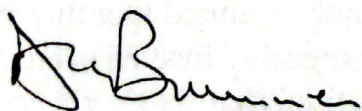
Judge Brunnen

Judge of the First-tier Tribunal

TO THE RESPONDENT
FEE AWARD

As I have allowed the appeal I have considered making a fee award. However the decision to allow the appeal has been heavily influenced by evidence presented in support of the appeal but not previously presented to the Respondent. I have therefore decided to make no fee award.

Signed



Date: 24 April 2014

Judge Brunnen

Judge of the First-tier Tribunal