



Tribunals Service

Asylum and Immigration Tribunal

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ASYLUM AND IMMIGRATION TRIBUNAL

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Date : 2 June 2009

THE IMMIGRATION ACTS

Appeal No: VA/52121/2008
Appellant: Ms, Farhat, Chaudhry
Respondent: Visa Officer

HO Ref:
Port Ref:
FCO Number: 1541816
Reps Ref: QLA/ISB/1541816

To the Appellant and Respondent

Enclosed is the Tribunal's determination of the above appeal.

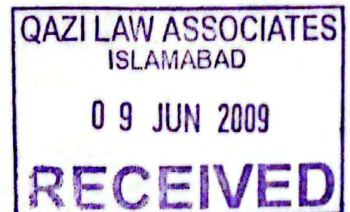
Either party may apply to the appropriate court (*the High Court or, where the Appeal was decided in Scotland, the Court of Session*) for a review of the Tribunal's decision on the ground of an error of law.

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

All applications must be sent to:

Secretary to the Asylum and Immigration Tribunal:

Arnhem House Review Applications, Arnhem Support Centre (Tribunal), P O Box 6987, Leicester, LE1 6ZX.
Fax: 0116 249 4214



Clerk to the Tribunal

Copy issued to Appellant: Ms, Farhat, Chaudhry,
Copy issued to Home Office: Presenting Officers Unit Eagle Building, G2 7EZ



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

Representative Copy

AIT75

THE IMMIGRATION ACTS

Decided on the papers at Glasgow
On 11.5.09
Prepared 11.5.09

Determination Promulgated

..... 2/6/2009

Before

IMMIGRATION JUDGE QUIGLEY

Between

MS AZRA CHAUDHRY
MS FARHAT CHAUDHRY

Appellants

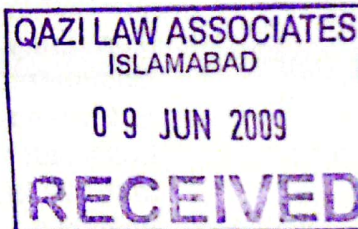
and

ENTRY CLEARANCE OFFICER - ISLAMABAD

Respondent

Representation:

For the Appellant: No representation
For the Respondent: No representation



DETERMINATION AND REASONS

1. The first appellant, Ms Azra Chaudhry, was born on 22.11.56 and is a citizen of Pakistan. The second appellant, Ms Farhat Chaudhry is her sister. She was born on 11.9.65 and is also a citizen of Pakistan.
2. The appellants have appealed against separate decisions by the Respondent dated 9.7.08 refusing their applications for entry clearance to the United Kingdom as family visitors for 2 weeks.

3. It is clear from the notice of appeal that the appellants wanted to have a paper hearing. Accordingly, I have determined the appeals on the basis of the documentary evidence before me consisting of the Respondent's various bundles, the notices of appeal, grounds of appeal and supporting documents.
4. In the case of the first appellant, the Respondent refused the application because he was not satisfied, on the balance of probabilities, that she met all the requirements of paragraph 41 of HC395. In particular, he was not satisfied that she would be able to maintain and accommodate herself without employment and without recourse to public funds. In addition, he was not satisfied that the appellant had provided any evidence of her brother-in-law's business or any original, official documentation that she earned any regular and sustained income deriving from such a concern.
5. In the case of the second appellant, the Entry Clearance Officer was not satisfied that the appellant was a genuine visitor or that she would leave the UK on completion of the proposed visit.
6. The burden of proof is on the appellant and the standard of proof required to be established is that of a balance of probabilities. I am obliged to take into account only the circumstances appertaining at the time of the decision to refuse.
7. One of the reasons why the second appellant's application was refused was because the appellant had presented photocopied documents. The Entry Clearance Officer considered that the marriage certificate and Children Family B form documents were of little evidential value.
8. However, it is clear from the first page of the second appellant's notice of refusal that original documents were provided including sponsor documents, bank statement, land documents, marriage certificate and birth certificate. Accordingly, I find that this reason for refusing the second appellant's application was not based on the evidence.
9. Again, in the case of the second appellant, the Entry Clearance Officer has narrated the fact that she has stated that she is a housewife and dependent on her husband. The Entry Clearance Officer accepts that she has provided a number of property documents which show possible ownership of land but he then states that these do not provide evidence of any income from the land. Again, the appellant provided a bank statement from her husband but the Entry Clearance Officer was not satisfied that this bank statement was an accurate reflection of his financial circumstances in Pakistan. He went on to state that he was not satisfied that the second appellant's circumstances were as comfortable as stated in the application form. He drew the conclusion that he was not satisfied that she was a genuine visitor or that she would leave the UK on completion of the visit.
10. It seems to me that the Entry Clearance Officer was speculating to quite a large extent. In her application form, the second appellant has stated that she is the sole owner in possession of property in Pakistan. She has also indicated that, contrary to what is suggested by the Entry Clearance Officer, she has family in Pakistan. It is clear from her visa application form that she has a husband and 3 children under the age of 18 who reside in Pakistan. None of the children is to accompany her. I am satisfied that the second appellant is a genuine visitor and that she has sufficiently

strong family, social and economic ties to Pakistan. I am satisfied that she will leave the UK on completion of the proposed visit.

11. With regard to the first appellant, Ms Azra Chaudhry, the Entry Clearance Officer has come to the conclusion that he is not satisfied that she will be able to maintain and accommodate herself without employment and without recourse to public funds. The main reason for this conclusion is that she had declared, in her application form, that she lived within a joint family system. However, the fact of the matter is that the Entry Clearance Officer did not refuse the application of Ms Farhat Chaudhry, her sister, on maintenance and accommodation grounds. I find that there is an inconsistency here. In looking at the visa application form of the second appellant, it is clear that she also is dependent on her husband (the brother-in-law of the first appellant) and is also part of a joint family system.
12. The Entry Clearance Officer states that the first appellant has failed to provide any evidence of her brother-in-law's business. However, there is evidence amongst the paperwork that her brother-in-law is employed as a Food Inspector in the Punjab Food Department. There is also evidence that he is a land owner and this is in fact accepted by the Entry Clearance Officer.
13. It seems to me that the Entry Clearance Officer has relied on considerable speculation in refusing the application of the first appellant.
14. On the totality of the evidence before me, I find that the appellants have discharged the burden of proof on them.
15. **I allow both appeals under the Immigration Rules.**

Signed

P Quigley
Immigration Judge



Date 1/6/2009