



Mr. Amir, Maqsood
C/o Waseem Younas
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PAKISTAN

Date : 12 July 2007

THE IMMIGRATION ACTS

Appeal No: VA/49911/2006
Appellant: Mr. Amir, Maqsood
Respondent: Visa Officer

HO Ref:
Port Ref:
FCNumber: 1256911
Reps Ref: isb/1256911

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 case 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 Representative: Naeem Translation House, 44000
Copy issued to Home Office: Presenting Officers Unit, Springfield House, LS1 2



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

ASYLUM AND IMMIGRATION TRIBUNAL
Family Visit Visa Appeal – Paper Appeal

Case No: VA/49911/2006
Appellant: Mr Amir Maqsood
Date of Entry Clearance Officer's Decision: 02/11/2006

Decided by: Immigration Judge M M Hutchinson

DECISION AND REASONS

1. Your appeal against the Entry Clearance Officer's decision has been allocated to me and I have decided to determine it without a hearing because you have either (a) not requested one, or (b) failed to nominate a representative or sponsor within the UK. I am satisfied that both parties have had a reasonable opportunity to make written submissions and to supply evidence. I have taken into account all the material supplied to me.
2. Section 85(5) of the **Nationality, Immigration and Asylum Act 2002** requires me to consider only the circumstances appertaining at the date of the decision under appeal. Unless otherwise stated below, the burden of proving your case on a "balance of probabilities" rests with you.

Family Visit

3. You only have a right of appeal under section 90 of the 2002 Act if you have applied to visit a family member, which is defined in the **Immigration Appeals (Family Visitor) Regulations 2003** as any of the following persons -
 - (a) the Appellant's spouse, father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, or first cousin ("first cousin" means, in relation to a person, the son or daughter of his uncle or aunt);
 - (b) the father, mother, brother or sister of the Appellant's spouse;
 - (c) the spouse of the Appellant's son or daughter;
 - (d) the Appellant's stepfather, stepmother, stepson, stepdaughter, stepbrother or stepsister; or
 - (e) a person with whom the Appellant has lived as a member of an unmarried couple for at least two of the three years before the day on which his application for entry clearance was made.
4. I find you are seeking entry clearance to visit a family member as defined and accordingly have a right of appeal against the Entry Clearance Officer's decision. My reasons are as follows. You have stated that you wish to visit your brother, Malik Ghulam Farooq, a British Citizen living in the UK, and you have provided evidence in support including a sponsorship declaration and a letter in support from your brother's accountant. I am therefore satisfied to the required standard that you are intending a family visit within the meaning of the above Regulations.

Grounds of Appeal

5. You have raised the following specific ground/s under section 84 of the 2002 Act in support of your appeal. That the Entry Clearance Officer's decision is:
 - Not in accordance with the Immigration Rules HC 395 (as amended)

Immigration Rules

6. In order to succeed outright in your appeal under the Immigration Rules you have to satisfy each and all of the requirements of Rule 41, listed below. For the reasons described below, I make the following findings as to each of the sub-paragraphs.

- | | |
|--|-----------|
| (i) You are genuinely seeking entry as a visitor for a limited period as stated by you, not exceeding 6 months; | Satisfied |
| (ii) You intend to leave the UK at the end of the period of the visit as stated by you: | Satisfied |
| (iii) You do not intend to take employment in the UK; | Satisfied |
| (iv) You do not intend to produce goods or provide services within the UK; including the selling of goods and services direct to members of the public; | Satisfied |
| (v) You do not intend to study at a maintained school; | Satisfied |
| (vi) You will maintain and accommodate yourself and any dependants adequately out; of resources available to you without recourse to public funds, or taking employment; or will, with any dependants, be maintained and accommodated by relatives or friends; | Satisfied |
| (vii) You can meet the cost of the return or onward journey. | Satisfied |
| (viii) (viii) You are not a child under the age of 18. | Satisfied |

7. My reasons for these findings are as follows. The Entry Clearance Officer (ECO) in Islamabad, Pakistan refused your application as the ECO was not satisfied that you met the requirements of Rule 41 above.

8. The ECO's first concern was that you had not provided any evidence from your sponsor. This is obviously not now the case, as there is a sponsorship declaration and an accountant's letter before me as set out above. I find therefore on the evidence that you have satisfactorily demonstrated the relationship between you and your brother. In any event I note that this ground has been conceded by the Entry Clearance Manager (ECM) who reviewed the application on 23rd March 2007.

9. The ECO's second concern was in relation to your personal and financial circumstances as the ECO asserts you have failed to produce satisfactory evidence. I note that you have provided your bank statement showing a closing balance of approximately Rs 270,072.54, equivalent to approximately £2,200. You have also provided other documents in support including a copy of your driving licence and a letter from your employer confirming your position as a driver and your income of Rs 25,000 – 35,000 per month. In addition you have produced evidence of your land ownership. You state in your application that you receive Rs 2000 per month from each of the six shops you rent out. Although I have considered the ECO and the ECM's concerns that the deposits in your account (and the cost of your trip) far exceed your income from your employment, I am satisfied on all the evidence that you receive income from other sources as claimed. I also find that it is entirely reasonable for you to be saving in your account prior to a proposed trip abroad. I am therefore satisfied that your income and financial circumstances are as claimed.

10. I also note that your application states that the £2000 for your trip is being jointly paid for by you and your sponsor (your brother) and I note the information from his accountant states his income as over £29,000 per annum. The sponsorship declaration also sets out the accommodation available to you (and your mother who you are proposing to accompany and

who has already been granted a visa). I am therefore satisfied on all the evidence that there are sufficient resources available to you to finance your trip and stay in the UK and that you will be adequately accommodated.

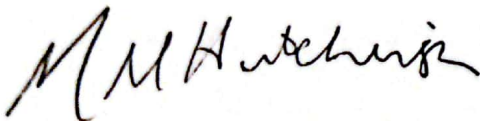
11. The ECO was also concerned that your visit was not for the period or purpose stated as you have a very young baby at home and the ECO did not find it credible that you would travel for 3 months at this time. I have taken all the information before me into account, including your submissions that you and your family live with your extended family in Pakistan and that you would not therefore have concerns about leaving your wife. I also note that you specifically wish to visit for this period as you are accompanying your mother. I accept your submissions on this point given that children are raised in a different culture in Pakistan and what might be expected as "normal" by the ECO (in terms of a father leaving a young child) is not necessarily the case. I find on all the evidence that you intend a genuine visit for the period and purpose stated. I am therefore satisfied that you meet all the requirements of Rule 41 above.

12. **MY CONCLUSIONS ON THIS APPEAL ARE:**

- A. IN RESPECT OF THE IMMIGRATION RULES BECAUSE YOU HAVE ESTABLISHED THAT YOU SATISFY THE REQUIREMENTS OF PARAGRAPH 41 SUB PARAGRAPH/S i, ii, iii, iv, v, vi and vii, I ALLOW THIS APPEAL.

Signed

Date 11/07/2007



Immigration Judge M M Hutchinson