



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/07053/2016

THE IMMIGRATION ACTS

Heard at Bradford
On 18 June 2018

Decision & Reasons Promulgated
On 31 July 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

MARIA RASHID
(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain, instructed by Liberty Solicitors

For the Respondent: Mrs Pettersen, Senior Presenting Officer

DECISION AND REASONS

1. The appellant, Maria Rashid, was born on 14 January 1993 and is a female citizen of Pakistan. She applied for indefinite leave to remain in the United Kingdom as the spouse of a British citizen (Mr Ishfaq Mahboob – hereafter referred to as the sponsor). By a decision dated 24 March 2016, the respondent refused that application. The appellant appealed to the First-tier Tribunal (Judge Moxon) which, in a decision promulgated on 27 April 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. As part of her application for indefinite leave to remain, the appellant was required to undertake a Knowledge of Life in the UK test. She had previously failed the same test several times previously. The respondent considered that the appellant, in support of her application, had sought to rely on a false pass notification letter (PNL) in relation to the Life in the UK test. Her application was refused under paragraph 322(1A) of HC 395 (as amended):

(1A) where false representations have been made or false documents or information have been submitted (whether or not material to the application, and whether or not to the applicant's knowledge), or material facts have not been disclosed, in relation to the application or in order to obtain documents from the Secretary of State or a third party required in support of the application.

3. Judge Moxon found that the Secretary of State had discharged the burden of proving that the appellant had relied upon a false PNL and he dismissed the appeal accordingly.
4. The grounds assert that, on the basis of the evidence which was before Judge Moxon, he should have found that the burden of proof on the Secretary of State had not been discharged by her. In other words, the appellant argues that the decision of the First-tier Tribunal was perverse. The respondent had not provided any evidence to support the allegation that the PNL was a false document. The judge had given insufficient weight to an invoice and receipt for undertaking the test which, the appellant argues, showed that the appellant's passport had been used as a method of verification and that her signature appeared on the certificate.
5. I find that the appeal should be dismissed. I have reached that decision for the following reasons. First, I am satisfied that Judge Moxon has considered all the relevant evidence in reaching his decision. At [41] the judge sets out the reasons given by the Secretary of State for considering the PNL to be a false document. The fonts and stamp on the document appeared to be "suspect/different" from a genuine document and also the reference number on the PNL when put into the relevant systems of the Home Office was found to relate to an entirely different person and not the appellant. It was a matter for the judge how to analyse this evidence and I can see no reason why he should be criticised for having found the evidence to be "compelling" [43].
6. Significantly, the judge also had regard to the quality of the oral evidence which he heard from the appellant and sponsor. His analysis of that evidence at [45] is not addressed in the grounds nor was it addressed by Mr Hussain at the Upper Tribunal hearing. However, the judge has given sound reasons for concluding that the evidence given by the appellant and sponsor was not reliable. In particular, the judge notes that "the appellant and sponsor gave an account of how [the appellant] had been taken to the assessment which is inconsistent with the contents of her statement". Not unreasonably, the judge considered that this inconsistent evidence "undermines [the appellant's] credibility". This is not, therefore, a case where the judge has simply accepted assertions or evidence put forward by the Secretary of State; he has considered all the evidence before him (including the oral evidence of

the appellant and sponsor) before reaching his conclusion that the PNL was not a genuine document.

7. I also accept Mrs Pettersen's submission that the fact that the invoice document upon which the appellant relies, whilst showing that the appellant's passport had been used for verification, does no more than show that the appellant had *registered to undertake* the test. The invoice does not show that the *appellant herself actually undertook* the test for which she had registered. In any event, I am satisfied that the judge considered the invoice together with all the other evidence in reaching his decision. I find that there is no question that the invoice is evidence in favour of the appellant's case which is so compelling that the dismissal of the appeal was perverse. I am satisfied that the judge has based his decision on evidence rather than bare assertions.

Notice of Decision

8. This appeal is dismissed.
9. No anonymity direction is made.

Signed

Date 20 JULY 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Upper Tribunal Judge Lane