



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-003161

First Tier No: EA/00280/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 17 October 2023

Before

UPPER TRIBUNAL JUDGE LANE

Between

Aasim Khalid
(NO ANONYMITY ORDER MADE)

Appellant

And

Secretary of State for the Home Department

Respondent

Heard at Manchester Civil Justice Centre on 22 June 2023

DECISION AND REASONS

1. The appellant, a male citizen of Pakistan, applied under the EU Settlement Scheme for leave to enter the United Kingdom as the direct family member and dependent of his father, a citizen of Italy. His application was refused and his appeal to the First-tier Tribunal dismissed. He now appeals, with permission, to the Upper Tribunal.
2. The grant of permission succinctly summarises the issues in the appeal before the Upper Tribunal:
 3. Although it is possible that at paragraph 12 of his determination the Judge did not intend to infer that the appellant had to demonstrate long-term dependency on his sponsor, rather that the evidence was inconsistent with the appellant's claim that such dependency had lasted for a number of years, that cannot be said of the Judge's conclusion at paragraph 16 that insufficient evidence over prolonged period of time had been provided to demonstrate genuine dependency.
 4. The Directive of 2004 and its successors do not lay down any requirement as to the minimum duration of the dependency or the amount of material support provided, as long as the dependency is structural and genuine in character. It is arguable that the Judge made a material error of law.
 5. The Judge also appears to have drawn an adverse inference from the lack of evidence that the appellant had not spent money on his education to improve his job prospects in Pakistan. That is an arguable error of law as the issue is whether the appellant needs the financial support he relies on to meet his essential living needs (Lebon (1987) ECR 2811).

6. The Judge appears to have made a material error of fact in referring several times to the appellant's presence in or ability to seek employment in Pakistan, whereas he resides in Italy
3. The respondent agrees that the judge erred in law for the reasons summarised by Judge Elliott in the grant of permission. In particular, it was an error of law for the judge to hold that dependency had to continue for a specified period of time in order for the appellant to satisfy the regulations.
4. I set aside the decision and return it to the First-tier Tribunal for that Tribunal to remake the decision after a hearing *de novo*.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22 September 2023