

## UK tribunal brings cheer to skilled Indian migrants

A ruling by a tribunal court, allowing an appeal by a highly skilled migrant from Kerala who faced deportation to India due to changes in immigration laws, has brought cheers to thousands of Indians in a similar situation here.

Changes to the Highly Skilled Migrants Programme (HSMP) in November 2006 made it virtually impossible for highly skilled migrants from India and other non-European Union countries who had entered Britain under the earlier criteria to qualify to stay in Britain.

The changes have since been the subject of considerable litigation and protest by those adversely affected. They have been supported by MPs across party lines, and most recently, by the London mayor, Ken Livingstone.

The case before the Hatton Cross Tribunal was brought by George Joseph from Kerala who holds a PhD in chemistry. He arrived in Britain under the earlier HSMP criteria after selling his property in India and leaving a career in Oman.

Joseph could not qualify to continue in Britain under the changed criteria announced in November 2006, and was slapped with a deportation notice to India. He challenged the notice and changes to the HSMP criteria under human rights laws.

Joseph said: 'I and my family are very happy about the tribunal court outcome and we have got a sigh of relief with the court's decision and our relatives back home in India are also happy for us.

'We have undergone an extremely stressful period of being forced out from a country where in we have been asked to sign declarations to make it our main home and for which we have made innumerable sacrifices to make it our main home.'

At the time of his entry in Britain, Joseph said 'guidance notes' given to him created 'legitimate expectation' that his stay in Britain would be extended provided he met the criteria that was in force before the changes were announced.

The promises in the 'guidance notes' read out by Joseph in the tribunal court said: 'That you are willing and able to make the United Kingdom your main home. We will ask you to provide a written undertaking to that effect.'

'24.10 Q: I have already applied successfully under HSMP. How does the revised HSMP affect me?

'A: Not at all. It is important to note that once you have entered under the programme you are in a category that has an avenue to settlement. Those who have already entered under HSMP will be allowed to stay and apply for settlement after four years qualifying residence regardless of these revisions to HSMP'.

'26.6 Q: What will I need to do to qualify to stay after the first 12 months?

A: You will need to show that you are lawfully economically active or, if you are not, that you have taken all reasonable steps to become lawfully economically active....'.

Judge Digney of the tribunal court ruled: 'This case is in fact stronger than any 'legitimate expectation' cases as here the appellant changed his position to his detriment as a result of what he was told.

'There is no overriding public interest that demands here the treatment to which the appellant was subjected...I conclude that the decision of the respondent is therefore not in accordance with the law'.

Amit Kapadia, coordinator of the campaign against the November 2006 changes, said: 'The ruling clearly indicates that what the UK Home Office is doing is unfair and unreasonable.

'The decision has brought hope to HSMP holders who are in similar situation as that of Joseph. We are eagerly waiting for the Judicial Review which can bring relief to thousands of HSMP holders in UK.'

Chris Randall, Chair of Immigration Law Practitioners Association said: 'It shows the advantages for some of using the appeal structure, especially where they have family here. This was a human rights appeal where it was argued that the legitimate expectation of Highly Skilled migrants already in the system about extensions to their stay were breached, which offended the requirement that any decision interfering with family and private life must be in accordance with the law.'

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