



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/39150/2013

THE IMMIGRATION ACTS

Heard at Field House

On 14 May 2014

Determination

Promulgated

On 15 July 2014

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

SAID NAWAB

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: The appellant not present or represented

For the Respondent: Mr Diwncyz, a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Said Nawab, was born on 15 January 1991 and is a male citizen of Pakistan. The appellant had appealed against the decision of the respondent dated 25 September 2013 to refuse him further leave to

remain. First-tier Tribunal (Judge N P Dickson) in a determination promulgated on 14 February 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Judge Grant-Hutchison, granting permission on 6 March 2014, wrote:

It is submitted amongst other grounds that it is arguable the judge erred in law by permitting a procedural or other irregularity capable of making a material difference to the outcome of the fairness of the proceedings when the appellant was self-represented and was not offered the services of an interpreter. The appellant stated in his grounds for permission to appeal that he had difficulty keeping up with the manner in which the questions were posed to him in examination, he was under pressure and not been to a hearing before. The judge referred to the appellant's English ability not being adequate at one stage of the hearing and comments at paragraph 15 of his determination that *'questions had to be repeated on a number of occasions and there were a number of misunderstandings which were subsequently addressed'* when arguably they may not have been.

3. At the appeal hearing on 14 May 2014, Mr Diwncyz appeared for the respondent. The appellant was not present nor was he represented. I am satisfied that the notice of hearing sent to the appellant at his last known address in Dewsbury by first class post on 8 April 2014 has reached him; there was nothing on the file to indicate that Royal Mail had been unable to deliver the notice. The appellant has not given any or any adequate reason or excuse for failing to attend and in the circumstances I proceeded with the hearing in his absence.

4. There are three grounds of appeal. The first asserts that the judge failed to give adequate reasons for his material findings. The appellant had applied for further leave to remain as a Tier 4 (General) Student and he had not obtained a CAS nor did he have an English language certificate as required by the Immigration Rules. The judge noted [18] that:

the appellant's appeal must fail as he has failed to produce even now a CAS - it is not a case where the appellant should be given additional time as his college has ceased business as this appellant admitted that his difficulties in providing a CAS were solely due to his failure to provide an English language test.

As a consequence, the appellant was unable to obtain the necessary points to satisfy the requirement of the Immigration Rules.

5. The grounds assert that the judge failed "to give any adequate reasons for why he has refused to accept an offer letter [from London Essex College]." The grounds assert that "the offer [letter] from London Essex College is a document akin to a CAS and ought to have been accepted both by the respondent and by the Immigration Judge." With respect, that argument is nonsense. The contents of a CAS are prescribed in considerable detail in the Immigration Rules; there was no obligation whatever on the judge or upon the respondent to accept and treat as a CAS a document which did not comply with those requirements.

6. As regards the English language requirement, the judge noted at [17] that, at the date of the hearing, the appellant was still awaiting his TOEIC test results in English. Also the judge did express his reservations regarding the appellant's ability to speak English (I note that he had not requested an interpreter for the hearing). The judge at [18] makes it entirely clear that it was the appellant's failure to provide a CAS which led to the refusal of his application and to the dismissal of his appeal. I find that there was no evidence at all that any procedural impropriety occurred; the judge seems to have taken trouble to explain the proceedings to the unrepresented appellant and to give him the opportunity to answer questions in cross-examination. However, even assuming the problems of comprehension did arise during the cross-examination, it is impossible, in the absence of a CAS document, to see how the outcome of the appeal might have been any different had the appellant been assisted by an interpreter; there was nothing the appellant could have said in oral evidence which might have put right his failure to provide a CAS.
7. In the circumstances, I find that the Tribunal has not erred in law such that its determination falls to be set aside. The appeal is dismissed.

DECISION

8. This appeal is dismissed.

Signed

Date 14 June 2014

Upper Tribunal Judge Clive Lane