



**UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)
IA/17205/2014**

APPEAL NUMBER:

THE IMMIGRATION ACTS

Heard at: Field House

**Decision and Reasons
Promulgated**

On: 20 April 2015

On: 11 June 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE MAILER

Between

**MR ASHIK ANTHOORA VALAPPIL
NO ANONYMITY DIRECTION MADE**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: In Person

**For the Respondent: Ms A Holmes, Senior Home Office Presenting
Officer**

DETERMINATION AND REASONS

1. The appellant in the appeal had applied for leave to remain in the UK as a Tier 4 (General) Student. However, the respondent noted that he had supplied a loan letter dated 14 February 2014 from the South Indian Bank. That letter was not accepted because from 2 March 2013 the only loan accepted is one provided by the student's national government, state or regional government, a government sponsored student loan company, or is part of an academic or educational loans scheme.

2. The appellant appeals with permission against the decision of First-tier Tribunal Judge Wellsley-Coles dismissing his appeal against the respondent's decision refusing a variation of his leave as a Tier 4 (General) Student. She stated (incorrectly) that the basis of refusal was that the appellant did not have 30 points for confirmation of acceptance for study, which she found was the sole issue in the case. On that basis she dismissed the appeal.
3. On 19 November 2014, First-tier Tribunal Judge Colyer granted the appellant permission to appeal on the basis that the actual reasons for refusal showed that the appellant had in fact been awarded 30 points for his CAS but "zero points for maintenance (funds)".
4. In the Rule 24 response, it was acknowledged that the Judge had made an error in law. The refusal letter is clear.
5. However, the issue still remains as to whether the appellant had provided any evidence to deal with the reason raised in the refusal letter. If so, the error may not be material and the appellant's appeal would fall to be dismissed in any event.
6. On 17 March 2015, the appellant's former solicitors informed the Tribunal that they were no longer representing him. The appellant confirmed that at the hearing on 20 April 2015; he stated that he did not want the opportunity to engage other legal representatives.
7. The appellant was present in Court when a similar matter, raising identical issues was argued. The latter appellant was represented by a solicitor, Mr R Saravanan who assisted Mr Vallapil. I am grateful for the assistance given, including the filing of documentation from the Reserve Bank of India relevant to the appellant's claim.
8. The appellant confirmed that he understood the nature and reasons of the refusal. He had in his possession the relevant statement of changes in the immigration rules applicable to this case as well as the full bundle of documents including the grounds of appeal before the First-tier Tribunal; the application for permission to appeal to the Upper Tribunal and written submissions on behalf of the respondent provided by Ms Holmes, produced at an earlier hearing on 2 March 2015.
9. He relied on the grounds produced to the First-tier tribunal Judge. At paragraph 5 of the grounds, it was submitted that the appellant applied for a student loan from the South Indian Bank, considered to be "one of the most proactive banks in India." The bank is the first Kerala based bank to implement Core Banking System and became a scheduled bank in 1946 under the Regulated Banks of India Act. This is a UKBA approved financial institution.
10. The appellant had produced the letter from the South Indian Bank dated 14 February 2014. A loan was sanctioned for the purpose of education in the UK. The loan is confirmed as being "completely sanctioned" and ready for disbursement. That was the letter submitted to the respondent.

11. It is not disputed that the South Indian Bank is a regulated financial institution. Nor is it disputed that the original loans letter was from a financial institution regulated by the official body in India where the money is held.
12. The further grounds contend that the bank is the third largest branch network amongst private sector banks in India. The bank has customised educational loans for education overseas. It is contended that he was issued a loan from that particular bank which was part of an academic and educational loan scheme.
13. None of that was disputed by Ms Holmes. The actual letter from the bank has been headed "sub: Sanction of Loan for Education Purpose Reg."
14. In Appendix C, the restrictions placed under paragraph 1B (5) of the appendix with regard to an entry clearance application are not applicable to an in country application for leave to remain, as in the appellant's case. He submitted that the loan from the South Indian Bank, which is part of an academic or educational loans scheme.
15. Ms Holmes submitted therefore that the appellant in this case needs to demonstrate that with the exception of sub paragraph 5, he fulfils all the requirements.

Assessment

16. I find that this appellant applied for further leave to remain as a Tier 4 student prior to the expiry of his leave. He applied from within the UK. He is thus required to provide an original loan letter from a financial institution regulated for the purpose of student loans by the official regulatory body for the country the institution is in.
17. There must be no conditions placed upon the release of the loan funds other than his making a successful application as a Tier 4 Migrant and finally that the loan is provided by the national government, the state or regional government, or a government sponsored student loan company, or is part of an academic or educational loans scheme.
18. It is thus necessary for this appellant to provide the necessary letter from a financial institution regulated for the purpose of student loans, in this case, by the official regulatory body for India.
19. The appellant's grounds of appeal including the assertion that the loan was issued from the South Indian Bank which was part of an academic and educational loan scheme. The contention that the bank has customised educational loans for education overseas has not been disputed. Nor is it disputed that the loan issued to the appellant from that bank was part of an academic and educational loan scheme.
20. The loan letter that he produced was from the South Indian Bank. Ms Holmes accepted that that bank relates to an overseas account. She accepted that the bank is regulated by the official regulatory body for India. The bank is approved by the Home Office.

21. I have had regard to the consolidated statute, subsequently produced, namely, the Reserve Bank of India Act 1934 as amended up to 7 January 2013.
22. It is evident from the legislation that the Reserve Bank of India is the official regulatory body regulating and controlling banks in India. The Reserve Bank of India derived its powers under the Reserve Bank of India Act 1934. The banks in India are also controlled by the Banking Regulations Act 1949, a copy of which has been provided. The latter Act consolidates and amends the law relating to banking and extends to the whole of India.
23. The schedule to the Reserve Bank of India Act has a list of Indian banks classified as such and regulated by the Reserve Bank. The South Indian Bank which provided the loan letter to the appellant is a bank identified in the schedule.
24. The Banking Regulation Act 1949 enables and empowers the Reserve Bank of India to issue notification, directions, circulations and the like, having effective supervision and control of the scheduled banks.
25. The Reserve Bank of India derives powers and directions to supervise educational loan schemes and has issued circulars.
26. I have had regard to a document produced, which is headed "Educational Loans Scheme" dated April 2001. The finance minister in a meeting with the Chief Executives of the public sector banks highlighted the role of commercial banks in facilitating the pursuit of higher education by poor, but meritorious students. In pursuance thereof, the Indian Banks' Association - IBA - constituted a study group under the chairmanship of one of the banks to examine the issue in detail. Based on the recommendation of the study group a comprehensive model educational loan scheme was prepared by the Indian banks' association for adoption by all banks. The scheme aims at providing financial support from the banking system to deserving and meritorious students for pursuing higher education in India and abroad.
27. Ms Holmes has subsequently accepted that the bank is regulated for the purpose of the Rules.
28. From the documentation produced I am accordingly satisfied that the appellant has provided evidence from the official regulatory body for India that the South Indian Bank Bank was regulated for the purpose of student loans by the official regulatory body of India. I am satisfied that he has shown that he satisfies the relevant requirements under the Rules.

Notice of Decision

29. The First-tier Tribunal Judge made an error of law and the decision is set aside.
30. I substitute a fresh decision allowing the appeal.

No anonymity direction is made.

Signed
Deputy Upper Tribunal Judge Mailer

Dated: 8 June 2015