



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/06837/2015**

THE IMMIGRATION ACTS

**Heard at Bradford
On 9 February 2016**

**Decision & Reasons
Promulgated
On 4 March 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

MEHNAZ SAJID
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss L Mair, instructed by Prolegis Solicitors
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mehnaz Sajid, was born on 1 October 1981 and is a female citizen of Pakistan. She entered the United Kingdom as a work permit dependant on 7 March 2012 and applied for leave to remain on the basis of a relationship with Sajid Iqbal in May 2014. Her application was refused on the basis that the certificate she provided regarding her competence in the English language had not been issued by a provider on a list approved and accredited by the respondent (see Appendix O of HC 395 (as amended)). She appealed to the First-tier Tribunal (Judge Shimmin) which,

in a decision promulgated on 12 June 2015 dismissed the appeal. She now appeals, with permission, to the Upper Tribunal.

2. Although he did not concede the appeal on behalf of the Secretary of State, Mr Diwyncz, a Senior Home Office Presenting Officer, did not disagree with the analysis provided by Miss Mair, Counsel for the appellant. Miss Mair submitted that the appeal turned on the validity of the certificate. Unfortunately, the judge had failed to have regard to the Secretary of State's transitional provisions concerning the accredited providers of English language testing. The appellant has a grade 2 Graded Examination in Spoken English (Entry Level Certificate in ESOL International (speaking and listening) (Entry 1)). The certificate was issued on 30 March 2015. The transitional provisions concern immigration applications made until 5 November 2015 but only "when [the English language test] has been taken on or before 5 April 2015." The appellant's application fell within those parameters. The table produced by Miss Mair shows that the certificate issued by Trinity College London to the appellant remained valid until 5 November 2015 in respect of an immigration application as her test had been undertaken before 5 April 2015. Judge Shimmin, therefore, erred in law when he found [16] that the certificate did not comply with the Immigration Rules.
3. A Rule 24 statement issued by the respondent rather cryptically submits "that it is unclear from the transitional provisions HC 532 that the appellant's assertions on this matter are correct." Miss Mair helpfully produced a copy of the Statement of Changes in Immigration Rules HC 532. I am satisfied having considered that document that it is not relevant to the present appeal and does nothing to render the appellant's English language certificate invalid.

Notice of Decision

The decision of the First-tier Tribunal which had been promulgated on 12 June 2015 is set aside. I have re-made the decision. The appellant's appeal against the respondent's decision dated 5 February 2015 is allowed under the Immigration Rules.

No anonymity direction is made.

Signed

Date 18 February 2016

Upper Tribunal Judge Clive Lane