



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/12675/2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 14 March 2016**

**Determination Promulgated
On 20 May 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE ARCHER

Between

MR MIAN MUHAMMAD MOHSIN ASLAM

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Neil Garrod, Counsel, instructed by Pride Solicitors
For the Respondent: Mr Kandola, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This appeal is not subject to an anonymity order by the First-tier Tribunal pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. Neither party has invited me to make an anonymity order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) and I have not done so.
2. The appellant appeals against the decision of the First-tier Tribunal (Judge Cox) dismissing the appellant's appeal against a decision taken on 27 March 2015 to refuse further leave to remain under paragraph 245ZX(c) of

the Immigration Rules (“the Rules”) and to remove the appellant from the UK.

Introduction

3. The appellant is a citizen of Pakistan born in 1990. He made an application on 10 April 2014 for further leave to remain in the UK as a Tier 4 general migrant. That was based upon a CAS for a Diploma in Leadership and Management at Kinnaird College. The sponsor licence for Kinnaird College was revoked on 25 June 2014 and the appellant was given 60 days to submit a fresh application on 21 January 2015. The appellant subsequently did so.
4. The Secretary of State decided on 27 March 2015 that the CAS submitted with the application was assigned by the London School of Business and Finance (“LSBF”). The Tier 4 sponsor register was checked on 27 March 2015 and LSBF was not listed as a Tier 4 sponsor as of that date. The refusal letter states that the appellant was informed of that on 21 January 2015 and allowed 60 days to obtain a new sponsor. No new CAS had been provided. As the appellant was not in possession of a valid CAS his application was refused.

The Appeal

5. The appellant appealed to the First-tier Tribunal and his appeal was listed for oral hearing in Birmingham IAC on 19 August 2015. He was not represented and did not attend. The First-tier Tribunal found that the appellant had submitted a CAS with his application that was issued by LSBF. That turned out not to be valid because LSBF was not on the Tier 4 sponsor register as of 27 March 2015. The appellant’s position was quite hopeless and the appeal was dismissed.

The Appeal to the Upper Tribunal

6. The appellant sought permission to appeal to the Upper Tribunal on the basis that the First-tier Tribunal had erred in law because he did not know about the LSBF CAS and the respondent was clearly unaware of his true circumstances. He was sick on 19 August 2015 and had requested an adjournment.
7. Permission to appeal was granted by Deputy Upper Tribunal Judge Mailer on January 2016. It was arguable that the incorrect sponsor was relied upon by the respondent and the appeal was arguably dismissed on the wrong basis. The CAS apparently relied upon was for Kinnaird College.
8. In a rule 24 response dated 8 February 2016 the respondent submitted that the respondent gave the appellant 60 days on 21 January 2015 to find a new Tier 4 sponsor and CAS. Even if the respondent erroneously referred to LSBF it still did not appear that the appellant had found a new sponsor.
9. Thus, the appeal came before me

Discussion

10. Mr Garrod submitted that there was a clear error of law in that the judge accepted that the appellant had relied upon a CAS from LSBF. In fact, the CAS from LSBF was from 2011. The appellant was at Kinnaird College and could not get a new CAS because the respondent thought that he already had a CAS.
11. Mr Kandola submitted that the CAS may relate to the appellant but the case turns on whether Kinnaird College was a valid college on 27 March 2015. If it was then the decision was not in accordance with the law. That had not been shown today. In any event the appellant failed to supply a valid CAS within 60 days.
12. I find that the refusal letter of 27 March 2015 refers to a submitted CAS from LSBF. That is incorrect, the only CAS from LSBF dates from 2011. The judge erred at paragraph 4 of the decision by finding that the CAS submitted with the latest application was assigned by LSBF. The error is material because the appellant's application was never considered on the correct factual basis by the respondent and the judge.
13. The appellant's case, as set out in his witness statement of 11 March 2016 appears to be that he could not obtain a new CAS because he already had a CAS from Kinnaird College. He had sufficient funds and completed his MA from Anglia Ruskin University whilst his appeal was pending. He did successfully obtain an offer letter from another college which was submitted within the 60 day period permitted by the respondent. That factual basis for the varied application has never been considered by the respondent.
14. Thus, the First-tier Tribunal's decision to dismiss the appellant's appeal under the Rules involved the making of an error of law and its decision cannot stand.

Decision

15. Consequently, I set aside the decision of the First-tier Tribunal. I remake the decision by finding that the respondent's decision of 27 March 2015 was not in accordance with the law to the extent that no valid decision has yet been made in respect of the appellant's application. A fresh decision must be made in due course.

Signed

Date 14 May 2016



Judge Archer

Deputy Judge of the Upper Tribunal

