



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

Appeal Number: IA/04148/2014

THE IMMIGRATION ACTS

Heard at Field House

On 26 September 2014

**Determination
Promulgated**

On 23 October 2014

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

MOHEUDDIN KHAN CHOWDHURY

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

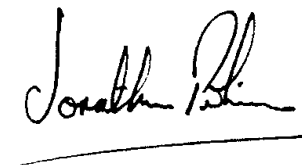
For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant was represented before the First-tier Tribunal but is not represented before the Upper Tribunal. The solicitors who represented him below and assisted with the grounds of appeal wrote to the Tribunal to say that they were without instructions. It follows that the appellant clearly has a constructive knowledge and probably actual knowledge of the hearing and I decided to continue in his absence.
2. This is an appeal against a decision of the First-tier Tribunal dismissing the appellant's appeal against the decision of the respondent to refuse him permission to remain in the United Kingdom as a Tier 4 (General) Student Migrant.

3. The First-tier Tribunal decided that the appeal had to be dismissed because the appellant did not have sufficient money in his bank account for the prescribed period.
4. There appeared to be a possible error of law on the part of the First-tier Tribunal because this was a case where the Rules permitted the appellant to rely on funds provided by his father. There is evidence that his father had funds on which the appellant could have relied. First-tier Tribunal Judge Brunnen noticed this when he gave permission to appeal but he explained in paragraph 3 of his grant of permission that this might not help the appellant.
5. There is no evidence that such reliance was ever part of the appellant's case before the First-tier Tribunal. Still less is there any evidence that the existence of those funds was made known when the application was made and so the appellant failed to satisfy the requirements of the Rules by producing with his application proof of his income.
6. It must be exceedingly annoying for the appellant if in fact he could have produced that evidence but he did not and the error cannot be repaired on appeal.
7. It follows therefore that it seems that, as indicated by First-tier Tribunal Judge Brunnen when he gave permission to appeal, although the First-tier Tribunal Judge erred in that he gave a legally inadequate reason for his decision, he made the right decision because the evidence before him could only support one conclusion. The appellant's appeal had to be dismissed because he had not produced the prescribed evidence at the required time.
8. I dismiss the appeal. There was no material error.

Signed
Jonathan Perkins
Judge of the Upper Tribunal

A handwritten signature in black ink, appearing to read 'Jonathan Perkins', written over a horizontal line.

Dated 21 October 2014