



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

Appeal Number: IA/12290/2014

THE IMMIGRATION ACTS

Heard at Stoke on Trent

On 24 October 2014

**Determination
Promulgated**

On 10 November 2014

Before

Deputy Upper Tribunal Judge Pickup

Between

**Muneeb Ur Rehman
[No anonymity direction made]**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: Mr A Hussain, instructed by Trent Chambers

For the respondent: Ms C Johnstone, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Muneeb Ur Rehman, date of birth 7.9.92, is a citizen of Pakistan.
2. This is his appeal against the determination of First-tier Tribunal Judge North promulgated 22.7.14, dismissing his appeal against the decision of the respondent, dated 12.7.13, to refuse his application made on 27.6.12 for leave to remain in the UK and to removed him by way of directions under section 47 of the Immigration Asylum and Nationality Act 2006. The Judge heard the appeal on 8.7.14.

3. First-tier Tribunal Judge Scott Baker granted permission to appeal on 8.8.14.
4. Thus the matter came before me on 24.10.14 as an appeal in the Upper Tribunal.

Error of Law

5. In the first instance I have to determine whether or not there was an error of law in the making of the decision of the First-tier Tribunal such that the determination of Judge North should be set aside.
6. The relevant background to the appeal can be summarised briefly as follows. The appellant first entered the UK on 18.2.11 with leave as a Tier 4 (General) Student, expiring on 27.6.12. On that date he made an application for leave to remain under the same category under the Points Based System (PBS). He submitted a Confirmation of Acceptance for Studies (CAS) for an extended diploma in management at the Business and Computing College of West London. The licence of that establishment was revoked on 26.6.12, thus the submitted CAS was no longer valid. On 15.2.13, before making a final decision on his application the respondent gave the appellant 60 days to make a fresh application with a new CAS for a different college. No such new application was made, and on 12.7.13 the application was refused because the submitted CAS number was not valid. The appellant could not qualify for the necessary 30 points under Appendix A.
7. Concluding on the evidence that the appellant did not have a valid CAS, Judge North dismissed the appeal. The judge took into account the appellant's claim that he had not received notice that his educational sponsor had been closed down by UKBA. He claimed that he became ill and was told that his application was still in progress. He was in hospital for several months from 16.8.13, as confirmed by medical evidence. Although he had been discharged from hospital, the appellant did not attend the appeal hearing. The application was made on 27.6.12, over a year before he was admitted to hospital and thus Judge North was not satisfied that the appellant's illness was associated with any reason as to why he could not produce a valid CAS.
8. The grounds of application for permission to appeal assert that the First-tier Tribunal Judge made material errors of law by a procedural unfairness in that the appellant had not been served with a copy of the respondent's bundle, that there had been a delay in the consideration of the application which was unfair, and that the appellant had a legitimate expectation that he would benefit from any policy of the respondent.
9. In granting permission to appeal, Judge Scott Baker noted that, "the issue in the appeal is narrow. The appellant had applied to extend his leave as a Tier 4 (General) Student on 27.6.12 and had submitted a CAS dated 26.6.12, with an expiry of 27.12.12. The refusal decision was not made until 12.7.13, by which time the CAS had not only expired but the college's licence had been surrendered. A copy of the CAS showing all of this

information was at Appendix C of the respondent's bundle which the appellant asserts he had not seen. The determination is silent on that point.

10. "It is clear from the determination that the First-tier Tribunal Judge had made an error of fact at [7] as the appellant held a valid CAS at the time of application. Further he had failed to consider any of the case law relating to procedural irregularities and the policy of the respondent in cases where sponsor licences are revoked. The grounds disclose arguable error of law. Permission to appeal is granted."
11. The grant of permission to appeal is flawed. It is beyond doubt that the appellant did not hold a valid CAS at the date of application. The day before the application the college's licence was revoked and thus no CAS issued could be valid at the date of application. There was no error of fact in the determination.
12. Neither do I accept that the decision of the First-tier Tribunal was in error by failing to take account of any procedural irregularity. I am satisfied on the evidence that the respondent sent the 60-day letter to the appellant on 15.2.13 at 117 Ilkeston Road, Nottingham. There was no requirement to send it by recorded delivery.
13. I gave leave to the appellant to give evidence under Rule 15 in support of the error of law argument. I also allowed Mr Hussain to take further instructions outside of the courtroom on two separate occasions in relation to my queries as to the chronology.
14. The appellant claimed he had not received the 60-day letter. Having heard the evidence, for the reasons set out below, I did not accept the appellant was truthful about that matter. His account makes no sense in relation to the chronology.
15. The appellant told me he lived at 117 Ilkeston Road until December 2013, but said that he had only lived there some 4-5 months. That cannot be right, his application gave that address when made on 27.6.12. He said that he first became ill in February 2013 and was admitted to hospital on 16.8.13 and discharged on a date he could not identify in 2014. I note his appeal was not lodged until 10.3.14, giving his address as in hospital. He told me he was still in hospital in December 2013 and agreed that he could not have been living then at 117 Ilkeston Road, as he was in hospital. He told me that he received the refusal letter when he was in hospital, but that was sent on 12.7.13, before he was admitted to hospital, to the Ilkeston Road address. Even though he knew of the refusal in 2013 he did not appeal until March 2014 and has never sought an alternative educational sponsor in all that time. Whenever it was that he left Ilkeston Road, he took no steps to notify the respondent of any change of address, that he had stopped studying, or even that he was in hospital.
16. When I asked Mr Hussain what the appellant was doing between his application in June 2012 and February 2013, when he first became ill, he went out to take some further instructions and sought to adduce further oral evidence from the appellant.
17. In the further oral evidence the appellant claimed that his new course for which he had obtained the CAS in June 2012 started on 2.7.12. Asked how long he studied on that course, he first said "a couple of weeks." When questioned as to what date, he said 26.9.12. Asked again, he said he did not know the exact date. When I asked why he had mentioned 26.9.12, he

said that was the date on the letter from the college. Asked if he knew the college's licence had been suspended or revoked, he said he didn't. He insisted that he started the course and then said that he had studied 4-5 months. Asked then why he had first said a couple of weeks, he could offer no credible explanation and appeared either unwilling or unable to answer my question or offer any further explanation. Mr Hussain did not seek to clarify the evidence by further questions of the appellant.

18. In the circumstances, I found the appellant an entirely untruthful and not credible witness in his own cause. His chronological account makes no sense. He was neither in hospital nor ill when he made his application. His account to have studied either a couple of weeks or 4-5 months is not credible when the college's licence was revoked on 26.6.12. If he did not receive the refusal letter, which I find he did, sent to him at the address where he was living at the date of both his application and the refusal letter, he has not explained how he was able to appeal the decision in March 2014, having been in the hospital since August 2014 until at least the date of his appeal. His illness has no real bearing on this appeal since the application and refusal all took place before he went into hospital and left the Ilkston Road address in August 2013. I reject his grounds of appeal account that before going into hospital in August 2013 he contacted UKBA about his application and was told by UKBA that it was still in progress. That cannot be true. It had been decided by refusal in July 2013. Whilst the appellant was in hospital at the date of appeal, he had asked for an oral hearing but then said he could not afford to attend an oral hearing. He was no longer in hospital at the date of the hearing before Judge North and thus there was no reason why he could not attend.
19. I find there is no procedural irregularity or unfairness in the proceedings before the First-tier Tribunal. I find that the appellant did not have a valid CAS and that he had been given an opportunity to find a new course but failed to do so. I further find that he cannot have studied at the college as claimed, but even if he did he has offered no credible explanation as to why he ceased studies after either a couple of weeks or 4-5 months from July 2012, all before he became unwell. Even on his own account he must have known before the end of 2012 that the college no longer had a licence to operation, perhaps explaining the college letter of 26.9.12 he referred to in evidence. It is clear that the appellant must have known that the CAS was not valid before the end of 2012, but even if he did not, he was notified by the respondent in February 2013, long before he went to hospital.
20. Neither the grounds of appeal nor Mr Hussain raised any article 8 private life issue and thus I do not address that in this decision.

Conclusions:

21. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed.



Signed:

Date: 31 October 2014

Deputy Upper Tribunal Judge Pickup

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

Given the circumstances, I make no anonymity order.

Fee Award

Note: this is not part of the determination.

In the light of my decision, I have considered whether to make a fee award (rule 23A (costs) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007).

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: The appeal has been dismissed and thus there can be no fee award.



Signed:

Date: 31 October 2014

Deputy Upper Tribunal Judge Pickup