



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/17702/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 10<sup>th</sup> November 2014

Decision Promulgated  
On 19<sup>th</sup> December 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

Kumar Baljeet  
(Anonymity Direction Not Made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: None

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**DECISION AND REASONS**

**The Appellant**

1. The appellant is citizen India born on 1<sup>st</sup> October 1986 and he applied on 28<sup>th</sup> January 2014 for leave to remain as a Tier 4 (General) Student. That application was refused on 9<sup>th</sup> April 2014 further to Paragraph 245ZX(d) of the Immigration Rules with reference to Paragraph 14 of Appendix C. In essence the appellant had not shown the required funds of £7,200 for a consecutive 28 day period prior to his application.

He appealed against the decision of the respondent maintaining that those funds were indeed shown by means of two bank statements which had been sent to the Secretary of State with the application. That from his father which showed £6, 386.17 and a further TSB bank statement showing that at all times he held in excess of £1,250. The respondent only acknowledged the statement from the father.

2. His appeal was heard by First Tier Tribunal Judge Hussain who dismissed his appeal on the basis that he could not locate the bank statement from the TSB. Permission to appeal was granted by First Tier Tribunal Judge Landes who located the TSB bank statement on the file running from 19<sup>th</sup> July 2013 to 24<sup>th</sup> January 2014 and which pre dated the application by four days.
3. I find that there was an error of law as the judge failed to take into account the TSB statement which was on file. This had a material affect on the assessment of the funds available to the appellant.
4. The one ground in issue was whether the appellant had shown that he had shown the required funds. The question was what was before the Secretary of State when she made her decision? At the hearing I requested that Ms Isherwood make enquiries as to the documents which had been before the Secretary of State when she made the decision in April 2014. She very efficiently and helpfully made enquiries. This avoided an adjournment to another day and saved time for both the respondent and the appellant.
5. Documents were faxed, on the morning of the hearing before me, from the Home Office in the form of the father's bank statement, which the respondent acknowledged in the refusal letter showed £6,386.17 but also, and crucially, the disputed TSB statement showing it was before the Secretary of State at the date of the application. Ms Isherwood accepted, as the appellant had claimed all along, that the TSB statement showing at least a further £1,250 at the appellant's disposal for the relevant 28 day period, had been sent to the Secretary of State with the application but had not been considered. The appellant produced the original statements which he stated had been returned to him with the refusal letter.
6. Ms Isherwood conceded that the appeal should be allowed as all the relevant requirements had been met. I agree.

### **Order**

Appeal allowed.

Signed

Date 10<sup>th</sup> November 2014

Deputy Upper Tribunal Judge Rimington