



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/17815/2013**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 1 August 2014**

**Determination  
Promulgated  
On 5 August 2014**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**Mr SUFYAN RIAZ BHINDER  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr D Balroop, Counsel  
(instructed by Khans Solicitors)

For the Respondent: Mrs L Kenny, Home Office Presenting Officer

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant appealed with permission granted by Designated First-tier Tribunal Judge Zucker on 18 June

**Number: IA/17815/2013**

2014 against the determination of First-tier Tribunal Judge Brennalls who had dismissed the Appellant's appeal in a determination promulgated on 6 May 2014.

2. The Appellant is a national of Pakistan, born on 8 August 1983, who had sought leave to remain in the United Kingdom on human rights grounds, which was refused by the Secretary of State on 30 April 2014. The Appellant had not made an asylum, humanitarian protection or human rights (Article 3 ECHR) claim but asserted that his life would be at risk in Pakistan. His father now deceased had been supporting his studies in the United Kingdom but his uncles in Pakistan had made threats against the Appellant. The Appellant wished to continue his studies in the United Kingdom. The judge found that Article 8 ECHR was not engaged on the facts.
3. Permission to appeal to the Upper Tribunal was granted by Designated First-tier Tribunal Zucker because he considered that it was arguable that the judge had (a) misunderstood the basis of the appeal and (b) had not applied Edgehill [2014] EWCA Civ 402, the relevant application having been made prior to 9 July 2014. The Respondent indicated by a rule 24 notice that the appeal was opposed.

*Submissions - error of law*

4. Mr Balroop for the Appellant relied on the grounds of onwards appeal on which permission to appeal had been granted. The application had been made on 14 April 2012. The Appellant was not seeking settlement but merely wished to continue his studies in the United Kingdom. He sought discretionary leave for that purpose. There were exceptional circumstances. Counsel confirmed that the Appellant had not made any form of protection claim to the Secretary of State.
5. The tribunal did not need to call on Mrs Kenny.

*No material error of law finding*

6. The tribunal indicated that it found that the judge had not fallen into material error of law. The experienced judge had heard and seen the Appellant, and reached

**Number: IA/17815/2013**

conclusions which were open to him. The tribunal reserved its determination which now follows.

7. It is the case that the judge had not applied Edgehill [2014] EWCA Civ 402, but no such submission had been made to him at the hearing. Edgehill was handed down on 2 April 2014. It was up to the Appellant to ensure that it was cited, if the Appellant contended that it conferred any advantage on him. That said, of course Edgehill states or clarifies the law and it should have been applied. But Mr Balroop was unable to show that its application could have made any difference to the outcome in the present appeal. The judge's reference to paragraph 276ADE of the Immigration Rules was to the change in the long residence rules, but he explained that these made no difference as the Appellant did not qualify under either regime. The structure the judge then followed was based on Razgar [2004] UKHL 27: see [8] to [9] of the determination. Thus there was no material error of law in failing to apply Edgehill.
8. The determination was succinct. It was plain that the judge had properly weighed and considered all of the evidence produced, and had given sufficient reasons to support his findings and decision. There was no suggestion that the judge had misunderstood the facts. The judge examined the evidence of the Appellant's private life, such as it was. The judge correctly applied Nasim and Others (Article 8) [2014] UKUT 00025 (IAC), although there was no need for him to cite the case by name. The Appellant was in the United Kingdom for a temporary purpose and if he could no longer afford to study in the United Kingdom and had no viable protection claim he was bound to depart. It would obviously remain open to the Appellant to make a fresh application to enter as a student when his finances permitted. The tribunal had no power to review the Secretary of State's refusal to exercise her discretion outside the Immigration Rules where Article 8 ECHR was not engaged, as it was open to the judge to find.
9. There was no material error of law in the determination and there is no basis for interfering with the judge's decision.

### **DECISION**

The making of the previous decision did not involve the making of an error on a point of law and stands unchanged

Number: IA/17815/2013

**Signed**

**Dated**

**Deputy Upper Tribunal Judge Manuell**

**TO THE RESPONDENT**  
**FEE AWARD**

The appeal was dismissed so there can be no fee award

**Signed**

**Dated**

**Deputy Upper Tribunal Judge Manuell**