



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

Appeal Number: IA/53356/2013

THE IMMIGRATION ACTS

Heard at Field House

On 27 August 2014

Determination

Promulgated

On 29 August 2014

Before

UPPER TRIBUNAL JUDGE SOUTHERN

Between

MR MUHAMMAD BILAL

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs H Gore, Counsel, instructed by Marks & Marks Solicitors

For the Respondent: Mr S Walker, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant has been granted permission to appeal against the decision of First-tier Tribunal Judge Powell who, by a determination promulgated on 19 May 2014, dismissed the appellant's appeal against refusal to grant him leave to remain pursuant to paragraph 245ZX of HC 395 as a student.

The judge determined the appeal on the papers with the consent of the parties.

2. It is common ground and agreed between the parties that the judge made an error of law in failing to resolve a factual dispute between the parties which was whether or not there was a Certificate of Acceptance for Studies ("CAS"), before the decision-maker.
3. In the face of such consensus I need say no more than that was a key issue to resolve in order to determine this appeal and in failing to do so the judge did not provide a proper basis for his determination and that is sufficient to identify that he made an error of law such as to mean that his decision cannot stand. If it is necessary for me to do so to facilitate that challenge, and without objection from Mr Walker, I grant the appellant leave to amend his grounds of appeal to the Upper Tribunal.
4. The parties are also agreed as to the factual basis upon which the decision now falls to be remade. It is accepted that there was in fact a CAS before the decision-maker who was therefore wrong to say otherwise in the decision of 3 December 2013. The only difficulty with that document was that it contained a typographical error in that the date of birth was incorrect. That error was corrected by a sponsor's note and that was an error that could indeed be corrected within the context of a points-based application because of the application of Section 85A.
5. Therefore it is clear that this was an application that should have succeeded as the appellant met all of the requirements of the applicable Rule. For those reasons I will substitute a fresh decision to allow the appeal.

Signed

Date 27 August 2014



Upper Tribunal Judge Southern