



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

Appeal Numbers: OA/04174/2013
OA/04170/2013

THE IMMIGRATION ACTS

Heard at Field House

**Oral judgment given at hearing
On 17th July 2014**

Determination

Promulgated

On 22nd September 2014

Before

**UPPER TRIBUNAL JUDGE KOPIECZEK
UPPER TRIBUNAL JUDGE KEBEDE**

Between

ENTRY CLEARANCE OFFICER - NEW DELHI

Appellant

and

**MRS SUSMA KUNWOR KARKI
MR AADARSHA KARKI**

Respondent

Representation:

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

For the Respondent: Mr V Makol, Legal Representative

DETERMINATION AND REASONS

1. The appellant in these proceedings is the Entry Clearance Officer New Delhi ("ECO"). However, for convenience we refer to the parties as they were before the First-tier Tribunal.

2. Thus the appellants are citizens of Nepal. The first appellant was born on 22nd July 1978. The second appellant is her son and the son of the sponsor, Mr Ram Raja Karki. The second appellant was born on 6th January 2006. Applications were made on 27th December 2012 for entry clearance as the spouse and dependent child of a student. The sponsor was here as a student and the applications were made as Tier 4 dependants. The applications were refused in decisions dated 20th December 2012. The appeals against those decisions came before First-tier Tribunal Judge Buckwell at a hearing on 1st April 2014.
3. In the light of the way the hearing has proceeded before us we do not consider it necessary to set out in detail the whole history of the proceedings and the relevant law, as all that has been taken quite shortly before us.
4. The relevant part of the ECO's decision was to the effect that the appellant had submitted a letter from her spouse stating that he is a student at Heriot-Watt University. The ECO concluded that that was the awarding body for his MSc degree in financial management but was not the sponsoring institution which it was said was the West London College.
5. The conclusion by the ECO was that the appellant was not the partner of a Tier 4 (General) Student who was undertaking a course of study sponsored by a sponsor which is a recognised body or a body in receipt of funding as a higher education institution from the Department for Employment and Learning etc. The refusal was under paragraph 319C(i)(5) of HC 395 (as amended).
6. Judge Buckwell, correctly in our view, identified what the relevant provision of the Immigration Rules was, notwithstanding that the notices of decision are rather obscure in that regard. The relevant provision is to the effect that the appellant's husband needed to have been undertaking a course which is of 1-12 months or longer in duration, of postgraduate level and sponsored by a sponsor which is a recognised body or a body in receipt of funding as a higher education institution.
7. The matter in issue before the First-tier Tribunal was, in effect, whether the sponsor was the West London College, which is not a recognised body, or Heriot-Watt University, which, it is accepted, is and was a recognised body.
8. Judge Buckwell concluded that on the evidence before him the sponsor's academic sponsor was the West London College. He referred to the CAS dated 17th August 2012 which it seems, on the face of it, had been issued by the West London College.
9. In the 'Rule 24' response, the ECO or the Secretary of State on his behalf, accepted that the issue in the appeal was who was the sponsor. If it was Heriot-Watt University, the appellants were able to satisfy the requirements of the Rules. If it was West London College they were not.

10. As the Rule 24 response correctly states, paragraph 6A of the Immigration Rules provides the meaning of “sponsor”, and that is that it is the person or government that the Certificate of Sponsorship Checking Service or Confirmation of Acceptance for Studies Checking Service records as being the sponsor for a migrant.
11. The CAS in this case, as we have already indicated, at least in its heading purports to be from the West London College. It is dated 17th August 2012. Manifestly however, the sponsor is identified in box 1 under the heading “sponsor”, as Heriot-Watt University. That, it seems to us, is conclusive evidence that the sponsor was in fact Heriot-Watt University, not the West London College. However, support for that proposition comes from other sources.
12. There is a letter to the sponsor from the UKBA itself, dated 19th October 2012. That letter in the respondent’s bundle also identifies the sponsor as Heriot-Watt University. The endorsement on the sponsor’s passport, that is to say the first appellant’s husband, gives a sponsor licence number of F7W7RNTXX, which is the same sponsor licence pertaining to Heriot-Watt as appears on the CAS.
13. There is a letter from West London College dated 11th January 2013 which states that the student is sponsored by Heriot-Watt University and that his CAS was issued by the University.
14. There is also a letter from Heriot-Watt University itself, dated 13th March 2014, which states that “the above named is registered on a full-time course of study at West London College, an associate campus of Heriot-Watt University”, leading to the qualification that he was seeking. It goes on to state that the student is sponsored by Heriot-Watt University and Mr Karki’s CAS was issued by the University.
15. All those, as we say, are features of the evidence which support the proposition that the sponsor is, and was, Heriot-Watt University. In those circumstances the first appellant is able to establish that she meets the requirements of the Rules.
16. Therefore, we are satisfied that the decision of the First-tier Tribunal involved the making of an error on a point of law. That decision is set aside and we re-make the decision by allowing the appeals of both appellants. That is a conclusion that was foreshadowed by Mr Walker’s helpful submissions whereby he accepted that there was an error of law in the decision of the First-tier Tribunal and that the correct outcome was for the appeals to be allowed.

Upper Tribunal Judge Kopieczek

22/08/14