



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/10075/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 18 December 2014

Decision & Reasons Promulgated  
On 12 January 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE GIBB

Between

MAYANKKUMAR BHASKARBHAI PATEL  
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: None (the Appellant appeared in person)

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. On 6 March 2013 the appellant, who is a citizen of India, was refused further leave to remain as a Tier 4 Student. He had been in the UK on that basis since 2009. The refusal referred to paragraph 322(1A) of the Immigration Rules. This was on the basis that the appellant had made false representations in his application, by basing it on a college to which he had not in fact been accepted.

2. The appellant's appeal was dismissed, on the papers, by First-tier Tribunal Judge Glossop, in a determination promulgated on 18 July 2013. Permission to appeal was initially refused, by First-tier Tribunal Judge Sommerville, on 20 August 2013. Some twelve months later, however, permission to appeal was granted by Upper Tribunal Judge Freeman.
3. The point on which permission to appeal was granted was that it appeared arguably unfair that a request made by the appellant to switch to an oral hearing had not been properly dealt with. The grant of permission made no reference to the fact that the application for permission to appeal was made about a year out of time. The refusal by the first-tier had been on the basis that the application at that stage had not been admitted (it was seven days out of time).
4. The appeal first came before me, and Upper Tribunal Judge Pitt, on 7 October 2014. We attempted to communicate with the unrepresented appellant but his English, although sufficient for normal conversation, was not good enough to explain legal issues. There was then a further adjourned hearing where the required Gujarati interpreter had not been booked, and the appeal finally went ahead on 18 December 2014, when a Gujarati interpreter was available.
5. After the initial adjourned hearing on 7 October 2014, written directions were sent out, making it clear that a full and detailed explanation of the reasons for the long delay between August 2013 and the application to the Upper Tribunal in July 2014 should be provided (along with supporting evidence).
6. The appellant, at the hearing on 18 December 2014, confirmed that he had received these written directions, and that he had understood the need for an explanation of the delay. I then gave the appellant a number of opportunities to put forward such an explanation. In essence this was that he had left everything to his solicitors, who had always told him that they were busy, and that everything was in hand. Since July 2013 the appellant had been at home with his uncle, not working, and unable to study. He now wanted to be allowed to reapply to study, and he felt aggrieved that his lawyers had wasted time when he had spent so much.
7. As I indicated at the hearing, it is my view that there is not enough in what the appellant has put forward to amount to special circumstances justifying the extension of time.
8. It was established in **Boktor and Wanis (late application for permission) Egypt [2011] UKUT 00442 (IAC)** that, where an out of time point had not been dealt with, the grant of permission to appeal was conditional, and the question of whether there were special circumstances making it unjust not to extend time would have to be considered. In the light of this decision I attempted to explain to the appellant, at the earlier hearings, that this was an important point for him to address. I also wrote the directions making this clear. By the time of the hearing on 18 December 2014 the

appellant had therefore been made aware of the issue, and had had plenty of time to seek advice on it, and prepare to deal with the point.

9. The written application made in July 2014 offered no explanation at all for the delay of a year in making the application, following the refusal in August 2013. At the hearing the appellant's explanation referred solely to the delay being caused by his legal representatives, but it appears to me that that is not enough, without more, to amount to a reasonable explanation. It is possible that the appellant has a valid complaint against his former representatives, but for time to be extended there would need to be some explanation from the representatives themselves as to the reason for the delay. It is also the case that we are concerned here with a very considerable delay. This is not a matter of a few days, but a delay of a whole year.
10. The underlying issue in the appeal was one that the appellant clearly felt he could address, but that is not enough in itself to amount to special circumstances justifying the extension of time. It remains open to the appellant to put forward his explanation to the Home Office. Given the serious consequences for any potential future applications, this would be of significance in attempting to remove the false representations aspect of the refusal from his record, but the appellant would need to understand that he would now, from the date with which he is served with this decision, need to make arrangements to leave the UK within 28 days if he does not want to become an overstayer.
11. The application for permission to appeal to the Upper Tribunal, despite apparently being granted, was out of time. Having considered the explanation for the lengthy delay I have decided that there are no special circumstances justifying extension of time. As a result the application made in July 2014 is not admitted. The First-tier decision dismissing the appellant's appeal therefore stands.

### **Notice of Decision**

Application for permission to appeal to the Upper Tribunal not admitted.

The First-tier decision dismissing the appeal stands.

No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge Gibb