



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

Appeal Number: IA/15843/2014

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 8 July 2015

On 13 July 2015

Before

**UPPER TRIBUNAL JUDGE KEBEDE
DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON**

Between

**GAGANDEEP SINGH
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Shamzuzzoha, Universal Solicitors

For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by Mr Gagandeep Singh against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse his application for leave to remain as a Tier 4 (General) Student and to remove him from the UK by way of directions pursuant to section 47 of the Immigration, Asylum and Nationality Act 2006.

2. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) we do not make an anonymity order. No order was made by the First-tier Tribunal and there were no issues before us that might require such an order.

Background

3. The appellant is a citizen of India born on 30 May 1987. He came to the United Kingdom on 17 September 2005 as a Tier 4 (General) Student under the Points Based System with leave to remain until 31 January 2009. The papers indicate that his leave was subsequently extended to enable him to complete his course and that he was then granted post-study work leave for a period of 2 years. The appellant then made a further in-time application on 29 October 2013 for leave as a Tier 4 (General) Student to enable him to complete a diploma in strategic management.
4. The respondent's refusal letter dated 26 March 2014 refused the application on the grounds that the appellant was not in possession of a valid Confirmation of Acceptance Studies (CAS) and that the appellant had not been awarded points for maintenance because he had not submitted a valid CAS. The application was also refused under paragraph 245ZX(a) of the Immigration Rules as the appellant was refused under paragraph 322(1A) of the Immigration Rules, the General Grounds of Refusal. The refusal letter indicated that the appellant had submitted a bank statement, reference 3417000109937088 and that 'these documents have been confirmed as false by the issuing authority.'
5. The appeal came before First-tier Tribunal Judge Robinson on 17 November 2014. In relation to the CAS the appellant's representative referred to the practice where a student would be given 60 days to 'regularise his stay or leave the UK', in effect an opportunity to find a new sponsor. However the respondent indicated that the fundamental reason why the application was refused was the submission of a false document. The judge, in a decision promulgated on 26 November 2014, concluded that the respondent provided strong evidence in the form of two Document Verification Reports indicating that appropriate queries were made about the documents in question. The judge found that the conclusions of the reports were based on standard procedures and found no fault with them. The judge was of the view that the further evidence, in the form of two further letters from Punjab National Bank, was unreliable. The judge concluded that the appellant did submit false documents in support of his application and that these were material to his application for leave to remain. The judge dismissed the appeal under the immigration rules and under Article 8.
6. Permission to appeal to the Upper Tribunal was sought on the basis that the judge failed to apply the immigration rules appropriately; that the

judge was wrong in assessing the engagement of the Appellant's human rights and the proportionality of the respondent's refusal decision; and that the judge was wrong in assessing the genuineness of the two bank letters submitted by the appellant for the appeal and in particular the judge was incorrect to find that there was no branch address or telephone number in the letters. It was argued that this was an error in material facts which taken into proper consideration could have led to a conclusion that the documents were genuine. Permission to appeal was granted on 5 May 2015. The judge granting permission was of the view that there was an arguable single issue of merit in relation to the findings of the First-tier Tribunal Judge as to the letters purportedly provided from Punjab National Bank in 2014.

Ground 1

7. There was no substantive argument before us in relation to any claimed failure by the judge to apply the immigration rules appropriately. Having satisfied himself that the appellant had submitted false documents in support of the application which for the reasons set out below, at Ground 2, we find was a conclusion open to the judge, the judge properly dismissed the appeal under paragraph 322(1A) and under the points based system, paragraphs 245ZX(a) and (c) of the immigration rules. We do not find any merit in this ground.

Ground 2

8. Again, although we pointed out to Mr Shamzuzzoha that this was the only ground on which permission was based, there was initially no substantive argument made in relation to the additional letters purportedly provided by Punjab National Bank. The thrust of Mr Shamzuzzoha's argument was that it is for the Home Office to prove with cogent evidence that any alleged deception has occurred. Mr Shamzuzzoha rehearsed the arguments made before the First-tier Tribunal that the two document verification reports (DVRs) were contradictory.
9. It was Mr Shamzuzzoha's contention that whereas the first DVR dated 21 January 2014 clearly stated in the 'information verified' section that the name and account number provided (for Sarbjeet Kaur, the appellant's mother) were false, the second DVR dated 27 January 2014 did not state this in the 'information verified' section but rather in the comments box. Mr Shamzuzzoha therefore argued that the two DVRs were contradictory.
10. Although it was Mr Shamzuzzoha's submission that the second DVR confirmed the existence of the appellant's account and the balance, as we indicated to Mr Shamzuzzoha at the hearing we did not find this to be the case. The second DVR in our findings set out the claimed details of the account, including the claimed balance at the 'information provided' section. The fact that the verifying officer

within the Document Centre Exception at the Identity Resolution Unit, left the 'information verified' section blank, instead stating in the 'comments' section as follows: 'False - checks with issuing body confirm documents are false (see attachment). Third party confirmation received on 22/1/14', does not, in our findings, make the two DVRs contradictory. We note that the first DVR clearly sets out that the account number provided for the appellant's mother does not exist but that there is another account in the name of the appellant's mother, Sarbjeet Kaur w/o Balraj Singh with a balance of Rs 2,502. The DVR records the Entry Clearance Assistant as calling the number given and speaking to an individual who confirmed that his contact number had been misused and that he did not know anyone with the names Sarbjeet Kaur or Balraj Singh.

11. Having considered all the evidence the judge went on to make clear findings, at paragraphs 30 to 34, including that there was no discrepancy between the two reports and that the conclusions of the two DVRs were 'based on standard procedures and I find no fault with them'. Those were findings that were properly open to the judge on the evidence before him.
12. In his reply to the presenting officer's submissions, Mr Shamzuzzoha sought to criticise the judge's findings at paragraph 28 of the decision and reasons in relation to two further bank letters purportedly provided by the Punjab National Bank. Although permission to appeal was granted on this basis we find no merit in this argument.
13. The grounds of appeal to the Upper Tribunal point to the bank stamps, contrary to the findings of the judge, containing a number dedicated to the specific branch of the Punjab Bank and that 'although are a bit blurry, have the name Rayaa which can be read and that is the Branch that issued the letters'. However Mr Shamzuzzoha conceded that the paper was of poor quality and given the blurry nature of the stamps we are of the view that it is very difficult to make out any details. Even if, therefore, the judge was mistaken in relation to the appearance of a branch name and number, we are satisfied that any such error is not material and we note the judge made a number of other criticisms of the letters including the lack of a letter heading and the lack of any confirmation of the bank balances. It was clearly open to the First-tier Tribunal Judge to find, as he did at paragraph 31, that the two additional letters allegedly written by the bank were unsatisfactory.
14. We did not find any error of fact that would amount to an error on a point of law which required the decision to be set aside. The second ground of appeal therefore has no merit in our findings.

Ground 3

15. In relation to Article 8, Mr Shamzuzzoha relied on CDS Brazil [2010] UKUT 00305 and submitted that the appellant had established a private life in the UK as a student. Although that may well be the case we are guided by Patel & Others v Secretary of State for the Home Department [2013] UKSC 72 which reminds that Article 8 is not a 'general dispensing power' and that 'the opportunity for a promising student to complete his course in this country, however desirable in general terms, is not in itself a right protected under article 8'. We have also been guided by Nasim and others (Article 8) [2014] UKUT 00025 (IAC) which confirmed that Article 8 has limited utility in private life cases that are far removed from the 'protection of an individual's moral and physical integrity'.
16. The First-tier Tribunal Judge therefore made findings properly open to him at paragraph 35 of the decision and reasons, in finding that the appeal could not succeed on the facts before him: including that the appellant had previously completed a course but had not started his second course; that the financial documents used in support of that application were false; that there was no indication that he had the funds to engage in further studies; and that his family life in India where he has a home to return to; and that he completed the course and obtained the qualification he sought when he originally entered the UK.

Decision:

17. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law and shall stand.

Signed:
Deputy Upper Tribunal Judge Hutchinson

Dated: