



IAC-FH-CK-V2

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

Appeal Numbers: IA/26152/2014
IA/26158/2014

THE IMMIGRATION ACTS

**Determination on the Papers
On 21 July 2015**

**Decision & Reasons Promulgated
On 18 August 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**RUPENKUMAR JAGDISHBHAI PATEL - FIRST APPELLANT
KHUSHBU ARVINDBHAI PATEL - SECOND APPELLANT
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The first Appellant, a national of India, date of birth 7 July 1981, appealed against the Respondent's decision dated 5 June 2014 to refuse an application made on 4 April 2014 for leave to remain as a Tier 4 (General) Student Migrant and to make removal directions under Section 47 of the Immigration, Asylum and Nationality Act 2006. The basis of the refusal was that the first Appellant failed to meet the mandatory requirement of such a Tier 4 application by failing to accompany it with a Confirmation of Acceptance for Studies (CAS) whereas the Appellant had not shown he had either been assigned a CAS nor was a valid CAS to be found. It followed that no points were awarded under attributes and no points were applied under

maintenance and funds. The second Appellant, a national of India (dob 29 June 1991) as the Appellant's dependent wife failed as a consequence.

2. The grounds of appeal to the First-tier Tribunal were generic and asserted that the Respondent had failed to consider all the evidence "furnished in respect of the said matter", that the first Appellant fulfilled all relevant requirements, then made reference to compassionate grounds, the Immigration Rules, Article 8 of the ECHR and stated an intention to particularise each ground at further hearing. Those grounds are dated 19 June 2014.
3. No further particulars were in fact provided of those grounds of appeal. The first Appellant's Tier 4 application indicated under Tier 4 course details that the first Appellant did not have a CAS nor is a copy of such a document provided with the application. There was no apparent accompanying letter from the first Appellant indicating any reason why there was some difficulty in providing the CAS.
4. No further representations have been made on behalf of the first Appellant. Directions given on 5 September 2014 indicated that if the first Appellant wished to he could send further documents to the Tribunal.
5. On 9 March 2015, received on 10 March 2015 the Appellants asked for the appeals to be considered on the papers instead of an oral hearing and the first Appellant said :

"The main issue in my appeal is that I have not provided a valid CAS letter, I request the Tribunal to grant me 60 days' leave to provide and valid CAS letter" [sic].

The document is signed on behalf of the first Appellant and second Appellant, his dependent wife, who had appealed on similar grounds to the first Appellant. I infer from the form of the letter that the first Appellant intended both his and his wife's appeals to be dealt with on the papers. A letter from Deccan Prime Solicitors LLP, dated 9 March 2015, confirmed they were no longer acting for the first Appellant. I cannot find documents that show they were acting for the second Appellant.

Come what may the submitted material did not provide any explanation for the absence of the CAS. There was no general provision either under case law or under the Immigration Rules for giving a person an extension of 60 days in which to provide a CAS letter if they had failed to do so with the application. It is not said that this was a case where the first Appellant was surprised by events leading to the cancellation of the CAS or there was some unexplained reason why a CAS could not be issued.

6. In these circumstances there is simply no evidence to support the grounds of appeal that the Secretary of State had failed to consider relevant information or taken into account considerations which ought not to have been considered. There is nothing under the Immigration Rules which provides for a further period of 60 days nor is there any identified Tier 4 guidance which indicated that such further period would be provided in circumstances pertaining to such as the Appellant's case. In these

circumstances the grounds have no merit and do not disclose any arguable error of law by the Secretary of State. The appeal must be dismissed.

7. I have considered whether or not Article 8 of the ECHR might be engaged but it is plain that the first Appellant's problem was simply that he could not make the appropriate application to obtain a CAS. There was no evidence before me to show that there was any basis on which Article 8 rights might be engaged either in respect of himself or his wife and there is nothing to indicate that they cannot conduct their private and family life back in India.
8. In these circumstances there is simply no evidence to show that Article 8(1) rights are engaged or that the interference in those rights by the Respondent's decision was significant. Similarly there was no evidence to show that the Respondent's decision was not Article 8 compliant nor that any such decision was disproportionate.
9. In these circumstances there was no basis to resist the removal directions that have been made.

NOTICE OF DECISION

10. The appeals under the Immigration Rules are dismissed. The appeals against the removal directions are dismissed.

ANONYMITY ORDER

No anonymity order was requested nor is one appropriate or necessary.

Signed

Date 10 August 2015

Deputy Upper Tribunal Judge Davey

TO THE RESPONDENT **FEE AWARD**

A fee of £140 for each Appellant was paid. The appeals have failed and in these circumstances no fee award is appropriate.

Signed

Date 10 August 2015

Deputy Upper Tribunal Judge Davey