



**The Upper Tribunal
(Immigration and Asylum Chamber) Appeal number: IA/27546/2014**

THE IMMIGRATION ACTS

**Heard at Field House
On July 22, 2015**

**Decision and Reasons
Promulgated
On July 23, 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR ATIKAN CONTEH
(NO ANONYMITY DIRECTION)**

Respondent

Representation:

Appellant Mr Walker (Home Office Presenting Officer)
Respondent Mr Balroop, Counsel, instructed by Greenland Lawyers LLP

DETERMINATION AND REASONS

1. Whereas the original respondent is the appealing party, I shall, in the interests of convenience and consistency, replicate the nomenclature of the decision at first instance.
2. The appellant is a citizen of Gambia and is now thirty-one years of age. He applied on April 23, 2014 for further leave to remain as the spouse of a person settled in the United Kingdom. The respondent refused this application on June 17, 2014 because she found the correct English language test certificate had not been submitted and the respondent was therefore not satisfied he met the requirements of paragraph 284 HC 395.

3. The appellant appealed that decision on July 2, 2014 under section 82(1) of the Nationality, Immigration and Asylum Act 2002.
4. The matter came before Judge of the First-tier Tribunal Abebrese on March 20, 2015 and in a decision promulgated on March 30, 2015 he allowed the appellant's appeal finding he had provided the correct documentation.
5. The respondent applied for permission to appeal on April 2, 2015 submitting the Tribunal had erred because the certificate submitted was not from a provider on her approved list.
6. Judge of the First-tier Tribunal Foudy gave permission to appeal on June 1, 2015 finding it arguable the Tribunal had arguably erred by accepting as valid an English language test that had been provided by an organisation that was no longer approved by the respondent and had also misdirected itself as to the law on the PBS Rules.
7. The First-tier Tribunal did not make an anonymity direction pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to make an order now.

PRELIMINARY ISSUE

8. Permission to appeal had been given because Judge of the First-tier Tribunal Foudy found it arguable that the Tribunal had erred. It was recognised by both representatives that this was not a PBS application but is in fact an application to extend leave as the spouse of a settled person.
9. Mr Walker also acknowledged that the appellant's representatives had written to the Home Office on January 23, 2015 requesting his passport to enable him to obtain a replacement for his ESOL certificate from City and Guilds. Mr Walker also accepted that this certificate was from an approved provider and that the appellant appeared to have an approved certificate that had no expiry date.
10. Both representatives agreed that the certificate did satisfy the requirements of the Immigration Rules.
11. In those circumstances Mr Walker saw no merit to the grounds of appeal and invited me to dismiss the appeal and to uphold the original decision.

DECISION

12. There was no material error. I uphold the original decision and I dismiss the appeal.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

**TO THE RESPONDENT
FEE AWARD**

I uphold the original fee award.

Signed:

Dated:

A handwritten signature in black ink, appearing to read "SPALIS". The signature is written in a cursive style with a horizontal line underneath the name.

Deputy Upper Tribunal Judge Alis