



IAC-FH-CK-V1

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

Appeal Number: IA/27733/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 2nd September 2015**

**Decision & Reasons Promulgated
On 8th September 2015**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**MR ABBAS SADAF
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Chodha, Counsel

For the Respondent: Ms A Brocklesby-Weller, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Pakistan born on 15th January 1968. His appeal against the refusal to vary leave to remain as a Tier 1 (General) Migrant and the decision to remove him under Section 47 was dismissed by First-tier Tribunal Judge Rowlands in a decision dated 7th April 2015.
2. Permission to appeal was granted by First-tier Tribunal Judge Osborne on the grounds that it was arguable that the judge had been mistaken as to the amount of earnings for self-employment and also as to the relevant period of self-employment.

3. At the hearing before me there was a discussion about whether the documents showing that national insurance contributions had been paid were submitted with the application. There was no mention of these documents in the application form or in the covering letter accompanying the application. It would appear from the court file that the documents were submitted with the grounds of appeal to the First-tier Tribunal. Accordingly, they would be inadmissible pursuant to Section 85A of the Nationality, Immigration and Asylum Act 2002.
4. In submissions, the Appellant claimed that he had sent all the documents save for a payslip with the application. There was evidence on the court file to show that a payslip and bank statements were submitted on 11th June 2014 prior to the decision on 19th June 2014. Unfortunately, there was no evidence to show that national insurance contributions had been paid and no evidence to show that the documents which appeared at pages 72 and 73 of the Appellant's bundle were in fact sent with the application or before the decision was made on 19th June 2014.
5. Paragraph 19 of Appendix A of the Immigration Rules states that if the applicant is claiming points for self-employed earnings made in the UK, he must also provide the specified documents in paragraph 19-SD(b) to show that he is registered as self-employed, he was registered as self-employed during the period(s) of self-employment used to claim points, and he was paying class 2 national insurance contributions during the period(s) of self-employment used to claim points.
6. Paragraph 19-SD states that the specified documents in paragraph 19(a) are: If the applicant's national insurance is paid by bill, the original bill from the billing period immediately before the application. If the applicant's national insurance is paid by direct debit, the most recent bank statement issued before the application, showing the direct debit payment of the national insurance contributions to HMRC.
7. In the refusal letter the Respondent states: "As your bank statements do not show that you are paying national insurance via direct debit and you have failed to supply any other documents detailed above you have failed to demonstrate that you have been paying class 2 national insurance contributions on your self-employed earnings."
8. The First-tier Tribunal Judge found at paragraph 9: "I have considered all of the evidence in this case including that to which I do not specifically refer and reach the following conclusion. Some of the documents provided by the Appellant are those which I cannot take into account as they fall foul of Section 19 of the UK Borders Act 2007 which specifies that I may not consider new evidence on an appeal which has only been provided after the decision. If I were able to do so then I would have been satisfied at least that the Appellant had dealt with the issue of national insurance contributions."

9. I accept the Appellant's submission that the judge applied the wrong figures at paragraph 4 and that there was evidence of earnings for the relevant twelve month period. However, there was no evidence before the Respondent that the Appellant was paying national insurance contributions during the relevant period of self-employment. The evidence submitted with the grounds of appeal, which appears at pages 72 and 73 of the Appellant's bundle before the First-tier Tribunal, were not admissible.
10. Accordingly, I find that there was no error of law in the judge's finding at paragraph 9 that he could not consider this evidence. The Appellant was unable to satisfy paragraph 19 of Appendix A and was not entitled to the points claimed under paragraph 245CA(b).
11. There was no material error of law in the decision dated 7th April 2015 and I dismiss the Appellant's appeal.

Notice of Decision

Appeal dismissed

No anonymity direction is made.

Signed

Date 7th September 2015

Upper Tribunal Judge Frances

**TO THE RESPONDENT
FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 7th September 2015

Upper Tribunal Judge Frances