



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/33920/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 20 May 2015

Decision & Reasons Promulgated  
On 27 May 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE SHAERF

Between

ABDULLAH AL MAMUN  
(ANONYMITY ORDER NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: None  
For the Respondent: Ms L Kenny of the Specialist Appeals Team

**DECISION AND REASONS**

**The Appellant**

1. The Appellant is a citizen of Bangladesh born on 10 May 1992. On 16 April 2014 he applied for further leave to remain as a Tier 4 (General) Student.

## **The Decision and Original Appeal**

2. On 5 August 2014 the Respondent refused to grant the Appellant further leave under paragraph 245ZX(a) of the Immigration Rules because his application fell for refusal under one of the grounds contained in paragraph 322(1A) of the Immigration Rules because as Proof of Finances to meet the points requirement for Maintenance (Funds) under Appendix C of the Immigration Rules the Appellant had submitted bank documentation which the Respondent found to be false. The Respondent also decided to remove him by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.
3. On 27 August 2014 the Appellant lodged notice of appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002 as amended (the 2002 Act). The grounds of appeal are lengthy and appear to incorporate a skeleton argument and submissions or both. In essence, the grounds are that the Respondent is put to proof to show that the bank documentation is false.

## **The First-tier Tribunal's Decision**

4. The appeal had been set for hearing on 17 November 2014. Neither the Appellant nor his then representatives, A1 Law Chambers, attended the hearing. The record shows the representatives were telephoned in the mid-afternoon but there was no response to the telephone call. The Respondent agreed the appeal might proceed without the Respondent being represented. Consequently, the appeal was determined on the papers and by a decision promulgated on 22 December 2014 Judge of the First-tier Tribunal Shamash dismissed the appeal.
5. The Appellant sought permission to appeal in his own name although it would appear he may have had the benefit of legal advice in the preparation of the application. In the application he asserts that prior to the hearing he had instructed his then representatives that the appeal should be determined without a hearing.
6. On 16 February 2015 Designated Judge of the First-tier Tribunal Macdonald granted permission to appeal because it was arguable the Judge had applied the wrong standard of proof and there was a lack of both written evidence to justify the refusal and reasoning to justify the decision.

## **The Upper Tribunal Hearing**

7. The Appellant attended the hearing at which he was unrepresented. A previous hearing in the Upper Tribunal had been adjourned because the Judge had considered the Appellant had insufficient English and no interpreter had been requested. In the event there was an interpreter present but the Appellant managed, with what appeared to be comparative ease, to put his case in English.
8. The Appellant confirmed he no longer had any representation and he had seen the document verification report (DVR) prepared by the Respondent together with the e-mails of 16 and 17 July forming the basis for the DVR. I noted in the Tribunal file

that such evidence had been included in the original bundle prepared by the Respondent.

9. I explained the nature and purpose of the hearing and with the assistance of Ms Kenny the Appellant was informed of the relevant issues and given an opportunity to read the relevant parts of the documents, such as the original decision and the grant of permission to appeal and the Rule 24 response.
10. I asked Ms Kenny to put the Respondent's case first so as to give the Appellant further time and information to enable him best to put his case. Ms Kenny pointed out that the Appellant had failed to provide the originals of the documents from Eastern Bank upon which he relied and which were identified at paras.5(viii), 6 and 8 of the First-tier Tribunal's decision. The supply of the originals was a requirement of the Immigration Rules.
11. The Judge at para.9 of her decision had set out the general provisions as to burden of proof in immigration appeals which did not cover circumstances in which fraud or deceit was alleged. Nevertheless, the Judge had at para.5 of her decision immediately prior to her consideration of the allegation of fraud made by the Respondent correctly set out the burden of proof. She had referred to the DVR and the exchange of e-mails of 16/17 July 2014. At para.16 she had given adequate reasons to support her conclusion that the bank documentation was not genuine. The appeal before the Upper Tribunal was simply an attempt by the Appellant to re-argue his case.
12. The Appellant asserted several times that all the bank documentation was genuine. He referred to an additional letter of 28 October 2014 from the bank re-asserting the genuineness of the original bank documentation. Additionally, the names of the individuals concerned in the DVR and e-mail exchange had been redacted.

### **Findings and Consideration**

13. I explained to the Appellant that the redaction of names in the Respondent's enquiries to ascertain the authenticity of documents was an invariable practice, adopted to protect the individuals concerned in work of this nature.
14. I find that the Judge did apply the appropriate standard of proof when considering the Respondent's allegation of fraud. She clearly and correctly set it out at para.15 of her decision. I remark that there was no challenge to the fact she had imposed "the higher standard" to that proof when in fact there is only one relevant standard of proof in cases of this nature, the civil standard: see *Re B (Children)* [2008] UKHL 35.
15. The Judge was satisfied on the basis of the DVR and exchange of e-mails that the bank documentation was not genuine and at paras.6 and 8 she had taken into account the subsequent letters of 6 April 2014 and 28 October 2014. She noted the Appellant had failed to provide original documentation well in advance of the hearing or to explain the situation "in a meaningful manner".

16. I am satisfied the Judge gave adequate reasons for her conclusions that the Respondent had adequately supported the allegation of fraud and that the Appellant had subsequently failed to discharge the burden of proof to show that the bank documents were genuine.
17. The Appellant was unrepresented and so I explained to him further why the documentation relating to the bank account was found in the DVR not to be genuine and why the letter of 28 October 2014 did not assist.
18. The Appellant's account was said to be held at a branch in Chittagong. The relevant department of the bank for checking documentation was in the bank's head office in Dhaka. The letters of 6 April and 28 October 2014 came from a Relationship Manager at the Banani branch of the Bank. There was no explanation how the Relationship Manager at that branch would be in a position to state whether the bank documentation was genuine. Of particular note is that the comment "we would like to confirm that we have not received any written or oral request from any authority regarding our issued letter and bank statement of the aforesaid customer" was at best disingenuous when issued by the Banani branch because the relevant department that dealt with the Respondent's request leading to the DVR was head office: see the e-mail exchange.
19. I announced my decision at the hearing and suggested to the Appellant he promptly seek legal advice from his previous representatives or some other firm or a pro bono organisation like the Citizens' Advice Bureau.
20. It follows for the reasons given that the First-tier Tribunal decision did not contain a material error of law such that it should be set aside and therefore it shall stand.

### **Anonymity**

21. There was no request for an anonymity direction or order and I find none is warranted.

### **NOTICE OF DECISION**

**The decision of the First-tier Tribunal did not contain a material error of law and shall stand.**

Signed/Official Crest

Date 22. v. 2015

Designated Judge Shaerf  
A Deputy Judge of the Upper Tribunal