



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/12189/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 23 April 2014

Determination Promulgated
On 16 May 2014

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

FARHAN ANJUM

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not present or represented
For the Respondent: Mr S Spence, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Farhan Anjum, was born on 25 August 1985 and is a male citizen of Pakistan. The appellant appealed against a decision dated 28 March 2013 to refuse him further leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant. The appellant appealed against that decision to the First-tier Tribunal (Judge Shimmin) which, in a determination promulgated on 13 February 2014,

dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The First-tier Tribunal resolved one of the reasons for the refusal of the appellant's application in the appellant's favour; at [20], Judge Shimmin agreed with the appellant's representative's submission that the Certificate of Acceptance for Studies (CAS) should have been requested by the respondent pursuant to the evidential flexibility policy in force at that time. At the Upper Tribunal hearing on 24 April 2014, the appellant did not attend although his representatives sent in a letter which I have considered. Mr Spence, who appeared for the respondent, made no submissions in respect of the CAS. I do not propose to disturb that part of Judge Shimmin's determination.
3. The remaining ground, therefore, concerns the appellant's failure to show that he had adequate maintenance (funds) in accordance with the Rules. The appellant has supplied a Halifax current account statement (printed 30 January 2014) which showed transactions on his account between 7 January 2013 and 15 January 2013, a period of 8 days. Throughout that period, there had been a balance in excess of £2,000. As the refusal letter noted, the appellant had failed to comply with the requirement under Appendix C of the Immigration Rules that he should be in possession of £2,000 for a consecutive 28 day period before the date of the application. The appellant had also submitted to the respondent a letter from Halifax dated 7 February 2013 to confirm that, as of 7 February 2013, the balance on the appellant's account was £2,000.10. The appellant submits that the Halifax Bank letter "demonstrated sufficient reason for the respondent to at least request an explanation/clarification from the appellant for [his Halifax account]." I note from the policy which appears to have been in force at the date of decision (version 2.0 which had been valid from 20 May 2013) a decision-maker could exercise a discretion to contact an applicant "if there are minor errors or omissions on a valid application but there is enough evidence to show the application would otherwise be granted." The decision-maker may, in those circumstances, "request missing documents and/or information." The policy is subject to the proviso that "before requesting the additional evidence we must have sufficient reasons to believe the information exists...."
4. Judge Shimmin [24] rejected the argument that the respondent should have applied the policy. He found that "The [bank] statement only speaks of the balances which are dated in the body of the statement. In this case, they are 7-15 January 2013 and do not meet the requirement of the period up to 7 February 2013."
5. I agree with Judge Shimmin that the letter from the Halifax does nothing more than to confirm the balance on the account on a particular date. It would have been a simple matter for the appellant to have requested the Halifax to confirm in writing that from 15 January 2013 until 7 February 2013 the balance on the account had always been in excess of £2,000. There is nothing arising from the Halifax letter or from the statement to suggest the existence of any document which would provide the information required to meet the Rules; there was no reason for the respondent to

suppose that an additional bank statement existed showing the balance for the missing period whilst it was entirely reasonable to assume that there was no further letter from the Halifax in existence which would provide the necessary information. The appellant is, in effect, suggesting that the respondent should have given him a further opportunity to obtain fresh evidence which was not in existence at the time of his application but which might have enabled him to satisfy the Rules. The respondent's flexibility policy did not exist to address such circumstances. I find, therefore, that Judge Shimmin did not err in law by rejecting the appellant's submission that the policy had been engaged in this instance. It follows that Judge Shimmin was therefore correct to find the appellant had failed to satisfy the necessary requirement and to dismiss his appeal.

6. The grounds of appeal do not challenge the judge's finding in respect of Article 8 ECHR.

DECISION

7. This appeal is dismissed.

Signed

Date 2 May 2014

Upper Tribunal Judge Clive Lane