



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

Appeal Number: IA/39488/2013

THE IMMIGRATION ACTS

Heard at Field House

On 10th June 2014

Determination

Promulgated

On 23rd June 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

MR TAHIR IQBAL

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Kannangara

For the Respondent: Mr E Tufan

DETERMINATION AND REASONS

1. This is an appeal by Tahir Iqbal against the determination of First-tier Tribunal Judge Cohen promulgated on the 19th March 2014. Mr Tahir Iqbal had applied under the points-based system but his application was refused on two bases.
2. The first was that the CAS letter that he had provided was no longer valid because the college licence had been withdrawn and so far as the

requirements for maintenance were concerned he had relied upon a statement from Bank Alfalah Limited. The Secretary of State had concluded following a document verification report that that account was false and accordingly the entire application was rejected under paragraph 322 of the Immigration Rules.

3. That point remained live at the appeal but unfortunately in the decision the burden and standard of proof was dealt with in this way at paragraph 10. The burden of proving that the decision of the Respondent was not in accordance with the law and the relevant Immigration Rules rests upon the Appellant. The standard of that proof is the balance of probabilities. The relevant date for the purpose of this appeal is the date of the hearing. I must look at those facts in existence on that date.
4. In paragraph 11 the Judge then referred to the document verification report in the chain of emails relied upon and said:

“The Appellant has failed to submit any evidence to counter this and I find that the document verification report and attach documentation can be relied upon and I attach significant weight thereto.”
5. There is no reference in the determination to the fact that where forgery is alleged the burden shifts to the Secretary of State. The standard of proof is that of the balance of probabilities but cogent evidence is required to support an allegation of forgery. There is no reference to that here and both paragraph 10 combined with the reliance on the failure of the Appellant to supply countering evidence gives a strong indication that the Judge has applied the wrong burden and standard of proof in this case.
6. Accordingly the determination cannot stand. I set the determination aside and I will formally order that the appeal be remitted to the First-tier Tribunal for reconsideration on all issues.

Signed

Date

Deputy Upper Tribunal Judge Parkes