



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

Appeal Number: IA/41233/2013

**THE IMMIGRATION ACTS**

**Heard at Birmingham, Sheldon Court**

**Determination**

**On 25<sup>th</sup> July 2014**

**Promulgated**

**On 11<sup>th</sup> August 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**MR MUHAMMAD ISHFAN IQBAL  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Imran Hussain (LR)

For the Respondent: Mr N Smart (HOPO)

**DETERMINATION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge A J Parker, promulgated on 23<sup>rd</sup> April 2014 following a hearing at Stoke-on-Trent on 8<sup>th</sup> April 2014. In the determination, the judge dismissed the appeal of Muhammad Ishfan Iqbal. The Appellant subsequently applied

for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

2. The Appellant is a male, a citizen of Pakistan, who was born on 7<sup>th</sup> December 1973. He appealed against the decision of the Respondent Secretary of State dated 18<sup>th</sup> September 2013, refusing to vary his leave to remain in the United Kingdom as a Tier 2 (General) Migrant.
3. The reasons for refusal were that the Appellant had made a false statement with respect to submission of a postgraduate diploma in business management from the Cambridge College of Learning in his previous application as a participant of the International Graduate Scheme, and that institution had never offered a legitimate postgraduate qualification. As such his application fell to be refused under paragraph 322(1A) of the Immigration Rules. Moreover, since a false representation had been made in this respect his future applications would also be refused under paragraph 322(2) of the Immigration Rules.

### **The Appellant's Claim**

4. The Appellant's claim is that he has undertaken the specified course. He has completed eight modules in a lecture form for fifteen to twenty people and he wrote two assignments. He studied for the postgraduate diploma in business management from 2007 to May 2008. The course that he sat had indeed been run (see paragraph 10).

### **The Judge's Findings**

5. The judge considered the evidence before him. He observed that the Appellant had undertaken his course at the Cambridge College of Learning. The case of **NA (Cambridge College of Learning) Pakistan [2009] UKAIT 00031** had established that this college never ran a postgraduate diploma in business management or a postgraduate diploma in an IT course (see paragraph 13).
6. The judge also had regard to the case of **TR (CCOL cases) Pakistan [2011] UKUT 33**. Having gone through the authorities, the judge held that, "**NA**... is indicative of there being no such thing as a genuinely issued CCOL postgraduate certificate in those subjects" (paragraph 13). The judge also wondered why the Appellant had maintained that he had only done two assignments and he had produced no evidence of study (paragraph 15). The appeal was dismissed.

### **Grounds of Application**

7. The grounds of application state that the judge erred in failing to apply the correct burden of proof and in failing to explain why he did not accept the Appellant's evidence that he had undertaken the course. If dishonesty had to be proved, the allegation of which was made six years after the

event, then there had to be a proper basis in evidence for it and it could not simply be assumed on the part of the Appellant.

8. On 23<sup>rd</sup> May 2014, permission to appeal was granted.

### **Submissions**

9. At the hearing before me, Mr Imran Hussain, appeared on behalf of the Appellant. He had prepared a well-constructed skeleton argument for the assistance of the court which I read. He then submitted that the proper approach in this case was not to look at paragraph 322(1A) which was only relevant to a deception made in the current application, but the application here referred to a historic allegation of deception which occurred more than six years ago, so the proper provision was Section 322(2). The Appellant had simply failed to provide the documentation. There was no deception. He had obtained his degree in 2012.
10. Mr Smart, on behalf of the Respondent, submitted that the judge had given proper consideration to the degree certificates issuing from the Cambridge College of Learning at paragraph 13 of the determination. He had taken all the matters into account comprehensively. The case of **NA (Pakistan) [2009] UKAIT 00031** was also considered. The determination was entirely sustainable.
11. In reply Mr Hussain submitted that six years had passed from the alleged deception by the Appellant and this period of time should be construed in favour of the Appellant. The judge had wrongly construed it against the Appellant.

### **No Error of Law**

12. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside this decision and remake it. I come to this conclusion notwithstanding Mr Imran Hussain's very able and competent submissions before me.
13. The fact is that the judge took into account the authorities in relation to **NA (Pakistan)**. He then went on to consider the entire issue of proving deception having specific regard to the Court of Appeal authority here. He explained that, "It would be important to follow the guidance given by the Court of Appeal in **AA (Nigeria) [2009] EWCA Civ 773** that knowing deception is needed to show false representations..." (paragraph 13).
14. The judge then had regard to the weakness of the evidence on the part of the Appellant even at the time when his studies were completed asking why the Appellant had only undertaken two assignments (see paragraph 15). Thirdly, the judge considered the position now observing that although six years had passed, "he would be well aware from the **TR** case of the difficulties of postgraduate diplomas and he should have been able to obtain evidence from students and lecturers and other forms to back up

what he has said. He has provided none..." (paragraph 19). This was a perfectly legitimate conclusion on the part of the judge.

15. Finally, the judge had just as proper a regard to the application of Article 8 jurisprudence, setting up the relevant case law before deciding that the Appellant could not succeed under this aspect of the jurisprudence either (see paragraphs 20 to 22).

### **Decision**

16. There is no true error of law in the original judge's decision. The determination shall stand.
17. No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

9<sup>th</sup> August 2014