



IAC-TH-CP-V1

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

Appeal Number: IA/11577/2014

THE IMMIGRATION ACTS

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

**Decision & Reasons Promulgated
On 7 September 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHAERF

Between

**AMANPREET SINGH
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Ms A Everett of the Special Appeals Team

DECISION AND REASONS

The Appellant

1. The Appellant is a citizen of India born on 20 October 1990. On 29 October 2013 he applied for further leave as a Tier 4 (General) Student Migrant. On 30 January 2014 the Respondent refused the application because she considered the Appellant did not meet the requirements of paragraph 245ZX(d) of the Immigration Rules and Appendix C (Maintenance (Funds)). He had failed to show he had sufficient funds. The Respondent came to this conclusion because she did not accept the bank

statements which the Appellant had supplied were genuine and on that basis further refused the claim by way of reference to paragraph 322(1A) of the Immigration Rules.

2. On 7 March 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 are brief, formulaic and generic. They refer to the burden of proof on the Respondent in respect of any allegation of a false document and requested a decision without a hearing. The Appellant subsequently requested and was given a date for an oral hearing.

The First-tier Tribunal's Decision

3. By a decision promulgated on 25 February 2015 Judge of the First-tier Tribunal S J Walker heard the appeal in the absence of the Appellant or any representative for the Appellant. The appeal had been lodged for the Appellant by solicitors. The Respondent was represented and the Judge was satisfied as to service of notice of the time, date and place set for the hearing and that it was just to proceed in the absence of the Appellant or any representative for him. He dismissed the appeal under the Immigration Rules.
4. On 6 March 2015 the Appellant in person lodged notice of appeal although the grounds bear the hallmark of having been drafted by a lawyer.
5. The grounds refer to the Document Verification Report (DVR) submitted for the Respondent and that at paragraph 23 of his decision the Judge had referred to the absence of an attachment referred to in the report.
6. The grounds cite *RP (proof of forgery) Nigeria [2006] UKAIT 00086* and other determinations and the judgment in *AA (Nigeria) v SSHD [2010] EWCA Civ 773* about the burden and standard of proof in relation to forged or false documents.
7. The thrust of the grounds is that there was no independent evidence provided to support the Respondent's allegation he had used false documents and the Judge's failure to address this amounted to an error of law.
8. On 28 April 2015 Judge of the First-tier Tribunal Brunnen granted permission to appeal because it was arguable the Judge had erred in treating a DVR as sufficient evidence that financial evidence was false in the circumstances where the evidence on which that report was based was missing.

The Upper Tribunal Hearing

9. The Appellant who is unrepresented did not attend the hearing nor any newly appointed representative. There was no letter of explanation from him and he had not informed the Tribunal on any of the forms in the file of his telephone number. I was satisfied that notice of the time, date and place set for the hearing had been given to the Appellant in accordance with Rule 36 of the Tribunal Procedure (Upper Tribunal) Rules 2008 as amended (the Procedure Rules). Having considered the papers in the file and the overriding objective of Procedure Rule 2, I decided it was

just to proceed with the hearing in the absence of the Appellant or any representative for him.

10. Ms Everett for the Respondent relied on the Procedure Rule 24 response of 14 May 2015 and the DVR. The Appellant had not produced any evidence to contradict the Respondent's assertion he had used false documents and the Judge's decision contained no material error of law.

Findings and Consideration

11. The Appellant was on notice from the reasons for the Respondent's refusal on 30 January 2014 of his application for further leave as a student. Since that time the Appellant has produced no evidence, documentary or oral, to show the bank statements submitted were genuine.
12. The missing attachment from the DVR is referred to in the "Comments" section of the DVR. The DVR without the attachment gives reasons why the Respondent considered the Appellant had submitted false bank statements. Those reasons are based on enquiry of the issuing bank and in the circumstances the DVR itself is sufficient to establish the "precedent facts" to support the allegation of fraud and to pass the burden of proof to the Appellant.
13. The Judge adequately dealt with this at paragraphs 25 and 28 of his decision. If the Appellant was to assert the documents were genuine or had been innocently provided then the burden of proof had shifted to him. The Judge correctly noted the Appellant's failure in any way to address the allegation of use of false documents at paragraph 31 of his decision relying in part on the judgment in *TK (Burundi) v SSHD [2009] EWCA Civ 40*.
14. The grounds disclose no material error of law and the Judge's decision shall stand.

Anonymity

15. There was no request for an anonymity order and having considered the appeal I find that none is warranted.

NOTICE OF DECISION

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

No anonymity direction is made.

Signed/Official Crest

Date 04. ix. 2015

Designated Judge Shaerf
A Deputy Judge of the Upper Tribunal