



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

Appeal Number: IA/49626/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 16 March 2015**

**Decision & Reasons Promulgated
On 23 March 2015**

Before

UPPER TRIBUNAL JUDGE DAWSON

Between

KANLAPAS LIMPHANIT

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Bazini, Counsel, instructed by E2WUK Ltd

For the Respondent: Mr M Shilliday, Senior Presenting Officer

DECISION AND REASONS

1. The appeal before me is against the decision of First-tier Tribunal Judge Kirvan who dismissed the appeal against the Secretary of State's decision refusing to grant further leave for reasons given in his determination dated 24 March 2014. The appellant who is a national of Thailand had made a Tier 4 Student application.
2. Permission to appeal was granted by Upper Tribunal Judge O'Connor on 24 June 2014 on a renewed application following a refusal of permission to appeal by the First-tier Tribunal.

3. The issue in the case relates to whether the respondent was correct to conclude in her decision dated 23 September 2013 that no CAS had been assigned to the appellant. It had been accepted that she had not submitted a CAS with her application but she had obtained one some two months hereafter. The judge had dismissed the appeal under the Immigration Rules without a hearing on the basis that the CAS had not been submitted at the time of application.
4. Mr Shilliday conceded that the judge had erred in not addressing the issue raised by the respondent's incorrect checking prior to decision. He conceded the appeal on the basis that the matter should be remitted to the Secretary of State for a further decision. Such an approach was acceptable to Mr Bazini and the parties set out their agreement in a consent order.
5. Accordingly I set aside the decision of the First-tier Tribunal with the consent of the parties. I remake the decision as invited by allowing the appeal on the basis that the decision of the respondent was not in accordance with the law. As a consequence the application by the appellant remains pending before the Secretary of State.
6. On this basis the appeal by the appellant is allowed.

Signed

Date 17 March 2015



Upper Tribunal Judge Dawson