



IAC-AH-DP-V1

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

Appeal Number: IA/12876/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 14 March 2016**

**Decision & Reasons
Promulgated
On 12 May 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MUHAMMAD SULEMAN IQBAL
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mrs Pettersen, Senior Home Office Presenting Officer
For the Respondent: Mr Malik, HUMD Solicitors

DECISION AND REASONS

1. I shall refer in this decision to the respondent as the appellant and to the appellant as the respondent (as they appeared respectively before the First-tier Tribunal). The appellant, Muhammad Suleman Iqbal, was born on 10 April 1981 and is a male citizen of Pakistan. He had applied for indefinite leave to remain as the spouse of a person present and settled in the United Kingdom (Farhat Shaheen) but his application was refused by a

decision dated 27 March 2015. The appellant had submitted with his application a pass notification letter indicating that he had undertaken and passed a Knowledge of Life in the United Kingdom test at the Best Training Centre in Sheffield on 3 October 2014. Certificate number (3246962) had not been recorded by the respondent on her database of results and, in consequence, the respondent had concluded that the appellant had provided a counterfeit certificate. The appellant appealed against the refusal to the First-tier Tribunal (Judge Turnock) which, in a decision promulgated on 9 September 2015, allowed the appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. The Presenting Officer before the First-tier Tribunal explained [25] that the process of testing took place electronically that the results were electronically communicated from the test centre to the respondent. The Presenting Officer had also submitted [26] that the appellant had failed to produce any evidence from the Best Training Centre explaining why it was that there was nothing on the database if, as he claimed, the appellant had taken and passed the test. In his decision, he judge went on to write this:

“The difficulty with the case from the respondent’s point of view is the absence of any satisfactory evidence as to how the electronic database actually operates and what checks were made on the system to make sure that the absence of any entry meant that nothing had been submitted to them. A printout of the database was itself inaccurate, showing the name of the appellant as “iqbal Muhammad suleman). There is clearly the possibility that there was an error in the details of the test not transmitted to the respondent. Balanced against that is the absence of any confirmatory evidence from the appellant although it is the case that he passed the test on 1 May 2015. That was, of course, a number of months after the date he first submitted the test and he would have had the opportunity to conduct further studies.”

3. The grounds of appeal confirm that there was only one record for the appellant having passed the test (his later attempt on 1 May 2015). The certificate from 3 October 2014 contained spelling and grammatical errors which, the respondent has submitted, should have caused the judge to view the result with caution. The grounds repeat the point made by the First-Tier Tribunal the Presenting Officer, namely that the appellant had not produced any evidence from the training provider or the test centre to show that he had passed the test in October 2014 and/or that there was some problem with the electronic notification to the respondent. Other than one other issue (which I deal with below) the grounds are as I have summarised them.
4. The judge considered both the spelling and grammatical errors [25] and “agreed that this layout of the certificate was somewhat unprofessional although there was no comparator certificates issued by the Best Training Centre to indicate that the certificate was not of their normal standard”. The judge, therefore dealt with the point raised in the grounds of the Upper Tribunal as he did with the subsequent point regarding the absence

of any “confirmatory evidence from the appellant” (see my quotation of the judge’s [27] above). The judge has, therefore, dealt with the issues raised in the grounds to the Upper Tribunal. The question remains whether he was entitled, on the evidence before him, to reach the decision that the appellant had passed the test in October 2014 that there had been some breakdown in the electronic communication of the result to the respondent. Conversely, the question arises as to whether such a finding, on the evidence, would be perverse, in the sense that no reasonable First-tier Tribunal Judge, faced with the same evidence, would come to such a conclusion. Having considered the matter carefully, I find that the conclusion which the judge reached was available to him on the evidence. He has dealt with the questions of the layout of the certificate, the spelling and the grammar and the fact that the appellant appears to have chosen not to obtain additional confirmatory evidence from the test provider. Given that the outcome of the appeal was not perverse, the Upper Tribunal should hesitate before seeking to substitute its own view of the evidence for that reached by the First-tier Tribunal Judge is charged with finding the facts having considered both the oral and documentary evidence in detail. Given that there was no error of the judge’s approach to the evidence and his analysis of it was not perverse I have decided not to interfere with the judge’s decision. I acknowledge that a differently constituted Tribunal may have reached a different result; however, that is not the point. For the reasons which I have given, the Secretary of State’s appeal is dismissed.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.

Signed

Date 20 April 2016

Upper Tribunal Judge Clive Lane