



IAC-FH-AR-V1

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

Appeal Number: IA/41709/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 4th December 2015**

**Decision & Reasons Promulgated
On 8th January 2016**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR BOSCO JOHN D'MELLO
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Sowerby, Counsel, instructed by Indra Sebastian Solicitors

For the Respondent: Miss A Fijiwala, Home Office Presenting Officer

DECISION AND REASONS

1. This is an application to the Upper Tribunal by the Appellant, with permission, against the decision of First-tier Tribunal Judge Higgins which was promulgated on 1st June 2015. The Appellant had applied for leave to remain which was refused by the Respondent on 3rd October 2014 who at the same time made the decision to remove him to India. It was his appeal against that decision which came before Judge Higgins.

2. The Appellant came to the UK as a student on 10th July 2010 and he was subsequently granted leave to remain as a post-study work migrant with leave expiring on 7th August 2014. He made an application for further leave to remain outside the Rules and he did so because his father had died in September 2011. He was his mother's only financial support and he wanted to stay for an additional period to strength his financial position before returning to India.
3. He was clearly not entitled to succeed under paragraph 276ADE, that part of the Immigration Rules that deals with private life due to the length of time he had been in the UK and also his continuing links with India. His wish to support his mother from work within the UK is not something which would engage Article 8 outside the Rules. It is difficult to see how human rights could be engaged at all although the judge did in fact consider Article 8, and s.117B of the Nationality, Immigration and Asylum Act 2002.
4. It is true that the judge may have misstated what the Appellant was applying for when he recited what is now trite law and indeed contained in Section 117B that little regard should be given to private life established when a person's immigration status is precarious. The Appellant's immigration status was in fact precarious because he had only ever had periods of temporary leave. The Appellant argues that he was not seeking to remain indefinitely, however, whether he wished to stay for a short period or indefinitely is wholly irrelevant to the issue of whether or not he ought to succeed on Article 8 grounds.

Notice of Decision

5. There is no right to work in the UK to support a family in India, that is not a protected human right, and I therefore find that the judge did not err in law and the determination shall stand. The appeal to the Upper Tribunal is dismissed.

No anonymity direction is made.

Signed

Date 7th January 2016

Upper Tribunal Judge Martin