



IAC-FH-CK-V2

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

Appeal Number: IA/51023/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 17 February 2016
Prepared 17 February 2016**

**Decision & Reasons Promulgated
On 6 April 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**MR SHOEB HUSSAIN MOHAMMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Ms S Sreeraman, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of India, date of birth 14 August 1990, appealed against the Respondent's decision, dated 27 November 2014, to refuse a combined application made on 22 August 2014 for leave to remain as a Tier 4 (General) Student. The basis of refusal was that the Appellant had not submitted a CAS letter with the application nor had any CAS number

been assigned to him. Thus there was no valid Confirmation of Acceptance for Studies in support of the application and it followed that there was no assessment as to whether sufficient funds had been identified.

2. The appeal against that decision stated: "I am not satisfied the decision of the Home Office. I will provide the time information before the honourable court according to the court's Rules and procedures".
3. There was no such additional documentation provided when the matter came before First-tier Tribunal Judge Lingam, who determined the matters on the papers on 19 August 2015. The judge listed in the decision the documents contained within the Respondent's bundle and the Appellant's reliance upon the grounds stated in the notice of appeal. The Appellant wrote to the Tribunal and asked that his appeal be determined on the papers and the Respondent was content with that course: Accordingly the judge did so.
4. For the reasons given in the decision by the judge, the judge was left in the position that quite simply the Appellant never had a CAS letter, never had a CAS reference number and never provided any evidence as such that he had done so. Accordingly the appeal could not succeed under the Rules and similarly failed in the evidence adduced to show that maintenance was not a legitimate basis for refusal.
5. The grounds of appeal to the Upper Tribunal clearly lay the blame, for what happened on the London College of Advanced Management, which the Appellant had intended to attend, on the basis that they had told him to submit a Tier 4 application and that he could provide a CAS letter at a later stage. The college took fees from the Appellant for the intended course. The college did not provide a CAS as, it was said, they had promised to do. So far as I can tell the Appellant did not notify the Home Office as to the difficulties he was facing or explaining the absence of a

CAS letter or seeking time in which to provide another CAS. The Appellant claimed in the grounds that he made numerous attempts to contact the college regarding his CAS letter and was upset to learn that at some stage the college's licence had also been revoked.

6. Whilst the grounds assert that the Home Office should have provided further time to provide a fresh CAS, however, the point was that a CAS had not been provided, no extension of time was requested, none had been promised and there was no legitimate expectation that he would be granted any extension of time. There was no unfairness on the part of the Home Office because quite simply no CAS letter had been provided and no explanation had been given for its absence and no request made for further time to submit one. This was not a case as contemplated in Patel [2011] UKUT 275 where revocation was a surprise to an applicant and therefore consideration should be given to further time to find another college (Patel [2011] UKUT 287). The grounds to the First-tier Tribunal had not included a claim under Article 8 ECHR but the judge noted in the decision that there was simply no evidence to support such claim or to substantiate any human rights grounds presumably based on family or private life being established. Accordingly there was no error of law in the judge failing to deal with Article 8 ECHR nor even if it had been was there any appearance that it would have had any prospects of success whatsoever outside of the Immigration Rules or at all. In these circumstances it was unsurprising that the judge dismissed the appeal.
7. Permission to appeal was granted by First-tier Tribunal Judge Frankish on 20 December 2015 but in the reasons given it is extremely hard to see what might have been relevant to the grant or what the reasons were. Nevertheless I decided, having referred this matter to Ms Sreeraman, that it was appropriate to proceed on the basis that permission had been granted and she relied upon a Rule 24 response, dated 7 January 2016, that there was no basis for an appeal.

8. Prior to the hearing a fax or email was sent to the Tribunal on or about 16 February 2016 concerning the hearing on 17 February 2016. The Appellant's signature and address appear on the document which coincided with the case file information on those matters. The Appellant said:

"I write further to my pending appeal. Please note that I tried to engage a Counsel for my hearing but I could not arrange one. In these circumstances I request the honourable court to deal with my appeal on papers in my absence taking into account my witness statement provided with the Appellant bundle and the grounds for permission to appeal."

9. In the circumstances I decided it was appropriate to proceed by way of a hearing and Ms Sreeraman's submissions were short and directed at the Rule 24 response and nothing else. I could not see prejudice or unfairness to the Appellant in proceeding by that route. The grounds of appeal did not overcome the fact that there never was a CAS letter issued to the Appellant.

NOTICE OF DECISION

The original Tribunal made no error of law. The original Tribunal's decision stands. The appeal of the Appellant is dismissed.

ANONYMITY

No anonymity order was sought nor is one necessary or appropriate as the appeal has failed.

Signed

Date 14 March 2016

Deputy Upper Tribunal Judge Davey

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 14 March 2016

Deputy Upper Tribunal Judge Davey