



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

Appeal Numbers: IA/20671/2014
IA/20681/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 22 December 2014**

**Decision & Reasons Promulgated
On 31 December 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

**MRS KIREN DEVI - FIRST APPELLANT
MR AMRINDER SINGH - SECOND APPELLANT
(ANONYMITY DIRECTIONS NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: No appearance

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. The appellants are citizens of India, born respectively on 5 May 1985 and 3 April 1985. The first appellant applied for leave to remain in the United Kingdom as a Tier 4 (General) Student and the second appellant as her husband. On 3 January 2014 the respondent refused their applications. They subsequently appealed and in a decision

dated 15 July 2013, having considered the appeals on papers, Judge of the First-tier Tribunal Duff dismissed their appeals.

2. The refusal letter relating to the first appellant stated that she had made her application and had claimed 10 points for Maintenance (Funds) under Appendix C of the Immigration Rules but that the documents that had been provided were dated more than one month before the application and therefore the respondent was not satisfied that the first appellant met the requirements to be awarded 10 points under Appendix C. It followed that she did not satisfy the requirements of the Immigration Rules and therefore her application was refused.
3. The refusal letter went on to set out in a table that as the appellant was studying outside of Inner London she needed to show that she had the required funds to cover the fees for the entire course, as it was less than a year long, had the required funds of £1,800 per month for two months for herself and the required funds of £450 per month for two months for her dependent partner. She would therefore have to have £2,500 plus any outstanding course fees. She had paid £2,000 of the total course fees of £2,500. She was therefore required to show that she has £3,000 for a consecutive 28 day period to meet the requirements for Maintenance (Funds). The application had been made on 27 December 2012 but the closing date of the bank statements submitted in support of the application was 21 November 2012, which was more than one month prior to the occasion and, as such, that document could not be taken into account. It was also found that the bank statement was not in the name of the first appellant but of the second appellant and that no evidence of funds available to the first appellant had been submitted. She was therefore awarded zero points for Maintenance (Funds). The refusal letter relating to the second appellant was based upon the same facts.
4. The grounds of appeal stated that following the submission of the application, whilst it was pending, the appellant received a letter from the respondent dated 11 December 2013 requesting that financial documents be filed within seven working days and that, thereafter, the appellant submitted her mother's fixed deposit receipts, birth certificate, affidavit in support and also her husband's bank statements. This was all done by recorded delivery. The grounds contended that the respondent appeared not to have given any consideration to those documents and to have refused the application on the basis of the documents originally submitted.
5. Albeit that the judge accepted the subsequent documents furnished by the appellants he found at paragraph 10 of his decision that the bank statements relating to the second appellant is dated 9 May 2012 which is manifestly considerably more than 31 days before the application. The letter from Oriental Bank of Commerce is dated 23 August 2013 which is also more than 31 days before the date of the application. Even if the respondent had taken these documents into account her decision would inevitably have been the same. The documentation did not show the appellants could meet the requirements of Appendix C.

6. The appellants sought permission to appeal. That application was considered by Judge of the First-tier Tribunal Heynes who in a decision dated 4 August 2014 found no arguable error of law disclosed within the application.
7. Permission was sought to apply to the Upper Tribunal. Upper Tribunal Judge Reeds, on 18 November 2014, gave permission. Her reasons for so doing are:
 - “(1) The issue in this case arises from the applicants submitting documents in the form of statements from the banks concerned relating to term deposits. It is arguable that the judge did not consider whether the appellants could satisfy the Rules by the evidence provided in this form.”
8. Before me today there was no appearance by the appellants or indeed any representative instructed by them. I therefore caused my clerk to telephone the instructed representatives who indicated that they had forwarded to the Tribunal by recorded delivery a request for the Tribunal to deal with the appeal on papers.
9. That document was unavailable to me. I therefore, as the matter was still listed for hearing, decided to proceed to deal with it on that basis. In so doing I invited Mr Avery to make submissions.
10. He argued that the First-tier Tribunal Judge directed himself appropriately. The appellants were required to produce evidence that fell within the required time period and clearly did not. The fact that they were term deposit certificates did not enable the appellants to meet the requirements of the Immigration Rules and accordingly there is no error within the decision of the First-tier Judge.
11. It was incumbent upon the first appellant to show that she was in possession of £3,000 for a consecutive 28 day period to meet the Tier 4 (General) Student Migrant Maintenance (Funds) requirements as required by paragraph 1A of Appendix C of the Immigration Rules HC 395 (as amended). I note that her application was made on 27 December 2012 and that the closing date of the bank statements submitted in support of her application is dated 21 November 2012. It is therefore more than one month prior to the appellant's application date and as such the appellant was unable to meet the requirements of the Rules and the respondent did not take the document into account when assessing her funds. That led to a conclusion that she was unable to meet the level of funds required to be granted as a Tier 4 (General) Student Migrant.
12. The grant for permission suggested it is arguable that the judge did not consider whether the appellants could satisfy the Rules by the evidence provided. That is plainly not the position. This is a detailed decision where the judge takes into account not just the evidence but the totality of the arguments as to whether or not as a consequent failure the appellants could meet the requirements of the Immigration Rules. The decision of the judge was open to be made on the evidence that was before him. Cogent and sustainable reasons have been given by him for coming to the findings that he did.

13. The making of the previous involved the making of no error on a point of law and I do not set aside the decision but order that it shall stand.
14. No anonymity direction is made.

Signed

Date 31 December 2014.

Deputy Upper Tribunal Judge Appleyard