



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/47354/2014

THE IMMIGRATION ACTS

Heard at Field House  
On 11<sup>th</sup> November 2015

Decision and Reasons Promulgated  
On 12<sup>th</sup> November 2015

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

MR HANAN SHABBIR  
(ANONYMITY ORDER NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No Representative  
For the Respondent: Mr T Melvin, Home Office Presenting Officer

DECISION AND REASONS

*Introduction*

1. The appellant is a citizen of Pakistan born on 16<sup>th</sup> October 1991. He arrived in the UK in 2010 with leave to enter as a Tier 4 general student migrant. His leave expired on 12<sup>th</sup> April 2014. He applied for further leave in the same capacity on 12<sup>th</sup> April 2014, and says he posted further evidence in the form of bank statements to support his application on 28<sup>th</sup> April 2014. His application was refused on 7<sup>th</sup> May 2014. His appeal against the decision was dismissed by First-tier Tribunal Judge Hussain in a determination promulgated on the 19<sup>th</sup> June 2015.
2. Permission to appeal was granted by Judge of the First-tier Tribunal Lambert on 21<sup>st</sup> September 2015 on the basis that it was arguable that the First-tier judge had erred in law in failing to consider the argument made by the appellant that as

online application instructions allow 15 working days for supporting documents to be posted to the respondent the bank statement evidence ought to have been considered as a Post Office receipt had been provided showing provision of further evidence in this time frame.

3. The matter came before me to determine whether the First-tier Tribunal had erred in law

#### *Submissions*

4. The grounds of appeal argue that the First-tier Tribunal erred in law for the reason in the grant of leave and refer to the online instruction which says: "Next steps for your application: Collect your supporting documents together and post them with your cover sheet within 15 working days to: PO Box: 180, Bootle, L80 4WG." The grounds of appeal also contend that there was an error in the determination of the matter under Article 8 ECHR.
5. In oral evidence Mr Shabbir added that he had not kept copies of the documents he sent within the 15 day time frame, which included his bank statement, or of the cover letter he had written sending them. He had also not tried to obtain further copies from the bank since that time. He had understood further evidence could not be considered if it was not evidence submitted with the application.
6. Mr Shabbir said that a letter obtained from Home Office records by Mr Melvin which indicated that the bank statements would not be available until 26<sup>th</sup> May 2014 had been written without his instructions by a college adviser who had known he had an initial problem getting the bank statements from Pakistan but was unaware he had managed to send them on 28<sup>th</sup> April 2014.

#### *Conclusions – Error of Law*

7. It is clear that the appellant argued in his grounds of appeal/ appeal statement that his bank statements had been submitted with the application, as they were submitted within the terms for on-line applications, and so formed part of the evidence which should have been considered by the Tribunal under s.85A (4) of the Nationality, Immigration and Asylum Act in a points based appeal such as this. It is clear that the appellant was awarded points for his CAS but that his application was refused for the sole reasons that points for maintenance were not given as he had not provided the relevant evidence of funds. It is clear that the argument outlined was not considered by the First-tier Tribunal when it ought to have been.
8. However in order to have succeeded in his appeal to the First-tier Tribunal the appellant needed to show he had £1600 for 28 days prior to his application which was evidenced by suitable bank statements. I accept that there was post office evidence that the appellant sent a letter to the respondent's address on 28<sup>th</sup> April 2014 within the 15 working day period and also prior to the decision of the respondent refusing leave. However there was no documentary evidence before the First-tier Tribunal that this letter included the bank statement and even if the

First-tier Tribunal had accepted the appellant's oral evidence that this was so, he had not supplied a copy of the document so there would have been no way that the First-tier Tribunal could have found that he had supplied a bank statement which complied with the documentary provisions of the Immigration Rules or that it showed sufficient funds for the relevant period of time. For these reasons any error on the part of the First-tier Tribunal could not have been material, as the Tribunal would inevitably have to have dismissed the appeal for want of evidence that the appellant could fulfil the maintenance requirements.

9. I find that the position is the same with respect to any failing by the First-tier Tribunal in consideration of the Article 8 ECHR appeal. I accept that the applicant has private life in the UK: his social ties and friends in this country which have come about due to his studies. He had not shown however that there would be very significant obstacles to his integration if he were to return to Pakistan, and thus could not have succeeded in an appeal under the private life Immigration Rules at paragraph 276ADE (1)(vi). Looking for any compelling matters outside of these Rules I fail to find any such issues that were before the First-tier Tribunal; but even if the First-tier Tribunal had considered this route they would inevitably have found that the appellant's removal was in accordance with the law and proportionate and dismissed this appeal. Whilst the appellant speaks reasonable English he lacked any evidence he could support himself financially and so could not show he would not be a burden on tax-payers. Further as someone who has only held precarious status little weight should be given to his private life ties in accordance with s.117B (5) of the Nationality, Immigration and Asylum Act. These considerations, combined with the need to maintain effective immigration control in the public interest, mean that the Article 8 ECHR appeal would have inevitably failed before the First-tier Tribunal.

Decision:

1. The making of the decision of the First-tier Tribunal did not involve the making of a material error on a point of law.
2. The decision of the First-tier Tribunal dismissing the appeal is upheld.

Signed: *Fiona Lindsley*  
Upper Tribunal Judge Lindsley

Date: 11<sup>th</sup> November 2015