



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

Appeal Number: IA/26944/2015

THE IMMIGRATION ACTS

**Heard at City Centre Tower, Decision & Reasons
Birmingham On 1st June 2017 Promulgated On 14th July 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**RAJVIR KAUR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Singh of the Birmingham Law Practice Limited
For the Respondent: Mrs M Aboni, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of India born on 15th December 1982. She first arrived in the UK on 18th October 2010 when she was granted leave to enter as a Tier 4 (General) Student Migrant until 30th July 2012.

She was subsequently granted leave to remain in the same capacity until 30th October 2014. However, that leave to remain was curtailed on 1st April 2014 following an application by the Appellant dated 5th March 2014 for further leave to remain as a Tier 4 (General) Student Migrant. That application was refused on 15th July 2015 for the reasons given in the Respondent's letter of that date. The Appellant appealed, and her appeal was heard by Judge of the First-tier Tribunal Hopkins (the Judge) sitting at Birmingham on 19th October 2016. He decided to dismiss the appeal for the reasons given in his Decision dated 25th October 2016. The Appellant sought leave to appeal that decision, and on 23rd March 2017 such permission was granted.

2. The Judge dismissed the appeal under the Immigration Rules because he found the Appellant failed to score sufficient points for a CAS under Appendix A of HC 395 because when she made her application, the Centre for Teaching in Management Limited, at which the Appellant proposed to study, did not hold a Tier 4 Sponsor licence. The Judge also found that the Appellant had not produced a false TOEIC certificate for the purposes of paragraph 322 of HC 395, but he considered the Appellant's rights under Article 8 of the ECHR outside of the Immigration Rules and although he found that the Respondent's decision amounted to an interference with the Appellant's private life, he also found that such interference was proportionate.
3. At the hearing before me, Mr Singh argued that the Judge had materially erred in law in that when considering the Appellant's Article 8 ECHR rights, the Judge had acted unfairly and unreasonably in not taking account of or failing to attach sufficient weight to the fact that the Home Office had failed to allow the Appellant 60 days in order to find a new Sponsor.
4. In response, Mrs Aboni submitted there had been no such error of law. She referred to the Rule 24 response and said that the 60 day concession had not been an issue argued before the Judge. The grounds of application amounted to no more than an attempt to re-argue the appeal.
5. I find no error of law in respect of the Judge's decision that there had been no disproportionate interference with the Appellant's Article 8 ECHR rights outside of the Immigration Rules. The Judge explained his decision in paragraphs 31 to 33 of the Decision. It is apparent from what he wrote then that he took into account all relevant evidence and came to a decision which was open to him on that evidence. The Judge demonstrated that he had carried out the balancing exercise necessary for any assessment of proportionality, and had attached an appropriate weight to the public interest. The Judge was entitled to conclude that that public interest outweighed any compassionate circumstances. In particular, the Judge was correct to attach weight to the public interest in accordance with Section 117B(1) and (4) of the Nationality, Immigration and Asylum Act 2002. The Judge took into account and dealt with the Appellant's complaints as to the actions of the Home Office. The Judge

was aware that the Appellant had been granted one previous period of 60 days' concession as he referred to it in paragraph 9 of the Decision.

6. For these reasons I find no error of law in the decision of the Judge.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside that decision.

The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and indeed find no reason to do so.

Signed

Date 12th July 2017

Deputy Upper Tribunal Judge Renton