



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/18752/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 9 August 2018

Decision sent to parties on  
On 4 September 2018

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

MIZANUR RAHMAN  
(NO ANONYMITY ORDER)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr R Benton, Counsel instructed by Connaughts

For the Respondent: Mr T Melvin, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Courtney who dismissed his appeal against the decision of the respondent not to grant him leave to remain under paragraph 276B of the Immigration Rules on long residence grounds because his residence was interrupted by reason of the curtailment of his leave on 18 March 2015.
2. The curtailment letter was served on the appellant's registered address for correspondence as provided in the application for that leave and he accepts that he

had both given that as his address for correspondence and failed to notify the respondent of any alternative address for correspondence.

3. As noted at paragraph 6 of the First-tier Tribunal decision, an appeal may only be brought against this decision on human rights grounds. The appellant's challenge is in effect to the operation of the Rules following the curtailment and the interruption to that period of ten years' lawful residence which was the effect of the curtailment of which he says he was completely oblivious. That cannot be right because on 26 March 2015, 8 days after the curtailment notice, the applicant received from the College where he was studying an email saying this,

"This email is to confirm that UKVI have been notified of our decision to remove sponsorship as you have been reported as using a proxy test taker for your previous proof of English test.

You should now make urgent arrangements to find a new sponsor or to leave the UK.

If you have any queries regarding the above please do not hesitate to contact us."

The applicant did not take urgent steps: he did not whether any notice had been received by his Visa company, the address for correspondence he had provided.

4. He waited for just under 10 weeks, before causing his solicitors to write to the respondent in the following terms,

"We have been instructed by the above named client to deal with his immigration matter. Please find the attached letter of authority ... He had a valid leave until 10 10 2015 in which he was doing his ACCA at London School of Business and Finance however he was discontinued by his sponsor on 26 March 2015. As a result he has been waiting for his visa Curtailment letter without that he won't be able to find any suitable sponsor.

We therefore hope that you will be kind enough to issue him a 60 days curtailment letter so that he can find a suitable sponsor."

It does not appear that this was pursued thereafter.

5. The broader human rights evidence before the First-tier Tribunal was that the appellant had a large extended family in the UK "to whom he had become very close" and that he had come to the United Kingdom aged 20 and spent at the date of hearing about 11 years in the United Kingdom but less than 10 years with leave. It is accepted that he cannot meet the requirements of the Rules.
6. The grounds of appeal do not challenge the First-tier Judge's finding that the appellant had not shown that there were significant obstacles to his reintegration, nor any qualifying family relationships for the purposes of Appendix FM.
7. Under Article 8, the judge found that there were no good grounds for proceeding to a second stage Article 8 assessment and that this was not a case where the interests of the state and the community and the maintenance of effective immigration control should not be accorded their normally preponderant weight. There is no direct

reference to Part 5A of the Nationality, Immigration and Asylum Act 2002 (as amended) but it is plain that the judge had those provisions in mind.

8. The appeal was advanced before me in three ways. First, that following the curtailment decision, the Secretary of State had been made aware some 10 weeks later that the appellant claimed not to have received the curtailment notice from his previous representatives but that she did not respond to that letter. The claimant considers that to be *Wednesbury* unreasonable. I disagree: he was aware that there was a problem and the onus was on him to contact his notified address for service and see what had been received, promptly, not 10 weeks later when any 60-day extension would have already expired.
9. Secondly, the appellant contends that the respondent's failure to respond and re-serve on the appellant at his home address was a breach of the substance of the respondent's then policy guidance. I have examined the policy guidance and the parts thereof to which I have been taken and that argument is simply unsustainable. The policy guidance provides for the Secretary of State to do exactly what she did do, which is to send the notice to the representative whose address was provided for correspondence and only to take further steps if it was returned by the postal service which in this case it was not. Mr Benton, the appellant's representative, signed for the curtailment notice in the normal way and the Secretary of State was entitled to consider that it had been served.
10. The third argument is that the correspondence address on an application form for a visa in 2012 could not reasonably be understood as the appellant's correspondence address in 2015 for the purpose of a service of a curtailment notice. That again is an argument which cannot possibly succeed. The responsibility is on the appellant to notify the Secretary of State if he wishes her to use a different address for service and it is common ground that he did not do so.
11. The Secretary of State was entitled to use the address of service which the appellant had provided at the time of the application for the visa and accordingly there is no arguable error of law, material or otherwise in the decision of the First-tier Tribunal.

## Decision

12. The First-tier Tribunal did not make any material error of law in the decision to dismiss the appellant's appeal.
13. I decline to set aside the First-tier Tribunal decision. The decision of the First-tier Tribunal stands.

Signed: *Judith A J C Gleeson*  
Upper Tribunal Judge Gleeson

Date: 28 August 2018