



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

Appeal Number: IA/21264/2012

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7 January 2014**

**Determination  
Promulgated  
On 21 January 2014**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**MR RADHA KRISHNA KANATHALA  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No representation

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is the decision in the application of Mr Radha Krishna Kanathala. Mr Kanathala represents himself today and the respondent is represented by Mr I Jarvis, a Senior Home Office Presenting Officer.

2. Mr Kanathala appeals, with permission, against the decision of First-tier Tribunal Judge Charlton-Brown who dismissed his appeal against the respondent's decision not to grant him further leave to remain in the United Kingdom as a Tier 1 (Post-Study Work) Migrant. The Tier 1 scheme closed on 6 April 2012 and although the applicant's application was made on 5 April 2012 he was not notified of receipt of the eligible qualification until 6 July 2012 and therefore, at the date of application he did not meet the requirement of the relevant Immigration Rules.
3. The applicant has pointed out today that his qualification date had been delayed both by errors by the Home Office in dealing with his Tier 4 application and also by errors by his sponsor in relation to an English language qualification which he did not require and that these two reasons caused him to begin his course later than anticipated which is why it also ended later than anticipated and after the date when the scheme was closed. He complains that although the Secretary of State emailed her caseworkers on 23 May 2012 to tell them what to do with applications such as his after the closure of Tier 1 and he was regularly chasing up the decision on his application made on 5 April in that year stating that he was expecting to receive his award in August or September of 2012, he did not receive the courtesy of a response or a decision until 19 September 2012. In the meantime he has been working and doing well but he was unable to take up an opportunity to work on the Olympics because his passport was with the respondent and he was also unfortunately unable to travel to his grandmother's funeral for the same reason because the passport was with the Home Office. He asks me to take all of those into account.
4. I have not found it necessary to call on Mr Jarvis for submissions. The position is unfortunately now very clear following the decision of the Upper Tribunal in *Nasim & Others (Raju: reasons not to follow?) [2013] UKUT 610 (IAC)* and it is this - that at the date of application the applicant must have the required qualifications. That was not the case here and unfortunately therefore, although the effect on this applicant seems to him to be unfair and it may very well be so, the position is that he cannot meet the requirements of the Rules and that the First-tier Tribunal did not err in dismissing his appeals. There being no material error of law in the First-tier determination the appeal is dismissed.

Signed

Date 20.01.2014

Upper Tribunal Judge Gleeson