



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/29716/2013

THE IMMIGRATION ACTS

Heard at Field House
On 3rd June 2014

Determination Promulgated
On 10th June 2014

Before

DEPUTY JUDGE OF UPPER TRIBUNAL GA BLACK

Between

MISS BEZAWIT ZEGEYE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss D Ofei- Kwatia (Counsel)
For the Respondent: Mr J Parkinson (Home office presenting officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Ethiopia and her date of birth is 14.11.1984.
2. This matter comes before me for consideration as to whether or not there was a material error of law in the determination of First Tier Tribunal Judge Kelsey (FTJ), heard on 13.2.2014 and dated 25.2.2014 in which the appeal was dismissed on immigration grounds.

3. Grounds of appeal were submitted that the FTJ erred in determining the appeal after a reconsideration decision was taken by the respondent to withdraw the refusal decision made 2.7.2013. The reconsideration decision was not before the Tribunal.
4. Permission to appeal was granted by First Tier Judge Hollingworth on 15.4.14.
5. In a Rule 24 response to the grounds of appeal the Respondent confirmed that the appeal was not opposed and conceded that the FTJ proceeded to hear an appeal where the Respondent had in fact withdrawn the immigration decision prior to the hearing.

Discussion and decision

6. The facts are not disputed. I find that an error arose as a result of a procedural irregularity.
7. At the time of the hearing it was not known by the Tribunal nor the Home Office presenting officer that the respondent wrote a letter dated 6.2.14 confirming that the refusal decision dated 2.7.2013 was withdrawn and on reconsideration the appellant was granted leave outside of the rules. This letter was not before the First Tier Tribunal and it appears that the Respondent's representative did not know appeared of the withdrawal decision. I rely on the Rule 24 response in which the respondent acknowledged that there had been a breakdown in communication which had led to the Tribunal making a procedural error by determining the appeal when in law there was no immigration decision and thus no appeal.
8. There was no need for submissions at the hearing before me. It was unfortunate that Miss Ofei- Kawatia had been unaware of the Rule 24 response prior to the hearing. It was apparent from the correspondence file that there had been a significant lack of communication on the part of the Respondent in this matter.

Decision

9. I find a material error of law by way of a procedural irregularity.
I set aside the determination. The appeal is allowed.

Signed

Date 3rd June 2014

Deputy Judge of the Upper Tribunal
GA Black

No anonymity order made.

I make an order for repayment of the fee of £140 in full to the appellant.

Signed

Date 3rd June 2014

Deputy Judge of the Upper Tribunal
GA Black