



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/47354/2013

Appeal Numbers:

THE IMMIGRATION ACTS

Heard at Field House

On 23rd July 2014

**Determination
Promulgated**

On 4th August 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE FRANCES

Between:

MUHAMMAD QASIM ANSARI

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr P Duffy, Senior Home Office Presenting
Officer

DETERMINATION AND REASONS

1. The Appellant is a citizen of Pakistan born on 17th May 1986. He appeals against the determination of the First-tier Tribunal dated 14th February 2014 dismissing his appeal against the Respondent's decision of 24th October 2013 refusing to vary leave to remain as a Tier 4 (General) Student Migrant and the decision to remove him to Pakistan under section 47 of the Immigration, Asylum and Nationality Act 2006.
2. The Appellant arrived in the UK on 14th August 2010 with leave to enter as a student until 31st January 2012. His was granted leave to remain on 4th February 2012 until 25th May 2013. He made an application for

further leave to remain on 24th May 2013 which was refused on 24th October 2013 on the grounds that his CAS had been withdrawn and was therefore invalid.

3. Permission to appeal was granted by Upper Tribunal Judge Grubb on 9th June 2014 on the grounds that it was arguable that, by analogy to Patel (revocation of sponsor licence – fairness) India [2011] UKUT 00211 (IAC), it may be unfair and unlawful if the Respondent did not inform the Appellant that his CAS had been withdrawn by the Sponsor, even though it was not the Respondent's action that led to the Appellant not meeting the requirements of the Immigration Rules.
4. The Appellant submitted that the CAS was valid at the time of the application and he could not attend classes unless he obtained permission. He received the refusal letter and contacted the Sponsor (European College of Higher Education), but they would not give an answer as to why they had withdrawn the CAS. The Appellant was not notified by the Respondent or the Sponsor that his CAS had been withdrawn. The Sponsor had acted unfairly in taking the Appellant's fees and then withdrawing the CAS. The Respondent had acted unfairly in refusing the application without giving the Appellant an opportunity to get another CAS.
5. Mr Duffy relied on the refusal of permission to appeal by First-tier Tribunal Judge TRP Hollingworth and submitted that the findings at paragraph 8 of the determination, as to why this case differed from Patel, were cogent and well reasoned. In the cases of Patel and Naved, the Respondent had created the situation that led to unfairness. In this case, the Sponsor had created the unfairness. There was no explanation for why the CAS had been withdrawn and it was open to the Sponsor to administer its own affairs.
6. First-tier Tribunal Judge Duff decided the appeal on the papers at the Appellant's request. He found that it was a requirement of the Immigration Rules that the Appellant must have a valid CAS and that Appendix A paragraph 116(c) provided that the CAS would only be considered to be valid if the Sponsor had not withdrawn the offer since the CAS was issued. The Judge properly directed himself in law.
7. In this case the Appellant's CAS was withdrawn by the Sponsor. There was no evidence before the Judge as to the circumstances in which the CAS was withdrawn. The Judge found that the Appellant's arguments based on "Patel" unfairness were misplaced since that authority dealt with the situation where the Respondent cancelled the Sponsor's licence, but in this case the Sponsor had cancelled the Appellant's CAS. This situation was envisaged by the Immigration Rules at Appendix A paragraph 116(c) and therefore the Respondent cannot be said to have acted unfairly.

8. I find that this conclusion was open to the Judge on the evidence before him. There was no evidence as to the circumstances in which the CAS was withdrawn. The Immigration Rules provided for this situation and therefore the Respondent's decision was not unlawful or unfair. There was insufficient evidence to show that the CAS was wrongly withdrawn or that the Appellant was unaware of the situation as he claimed. In any event, this was a matter between the Appellant and the Sponsor. The Appellant had not shown that the Respondent acted unfairly in refusing the application.
9. There was no challenge to the Judge's findings on section 47 or Article 8. Given that the Appellant was unrepresented, I have reviewed the determination as a whole and I find that there was no error of law in the Judge's decision to dismiss the appeal. It was open to the Appellant to make a fresh application and Mr Duffy stated that he would use best endeavours to return the original documents to the Appellant to enable him to do so without delay.
10. The Judge made no error on any point of law which might require the determination to be set aside. The appeal to the Upper Tribunal is dismissed. The determination of the First-tier Tribunal dated 14th February 2014 shall stand.

Deputy Upper Tribunal Judge Frances
24th July 2014