



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

Appeal Number: IA/07323/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 15 May 2015
Prepared 15 May 2015**

**Decision & Reasons
Promulgated
On 17 June 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**PURUSHOTTHAMAN THIRUGNANAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr P Nath, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of India, date of birth 26 June 1983, appealed against the Respondent's decision dated 11 December 2013 to refuse an application for leave to remain as a Tier 4 (General) Student Migrant and

to make removal directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

2. The basis of the refusal was that the Appellant had failed to show the necessary attributes, being a Confirmation of Acceptance for Studies, and because of that the maintenance requirements were not met either.
3. An appeal against that decision came before Judge T R P Hollingworth, who dismissed the appeal under the Immigration Rules and in respect of Article 8 of the ECHR and implicitly, although he made no reference to it, dismissed the appeal in respect of the removal directions.
4. Permission to appeal that decision was refused by First-tier Tribunal Judge Ford on 31 October 2014 but he did not deal with the fact it was an out of time appeal.
5. The matter was renewed before Deputy Upper Tribunal Judge McWilliam who, on 11 March 2015, granted permission to appeal and as extended time in the permission application.
6. Notice of the permission was given to the Appellant on 14 April 2015 and served at his last notified address at []. No communication has been received from the Appellant and the Appellant had not appeared before First-tier Tribunal Judge Hollingworth in June 2014.
7. The grounds are unsigned but evidently settled on the Appellant's behalf.
8. No application was made for the hearing before me to be postponed and nor was it applied to be adjourned on the basis that the Appellant was unable to attend for any reason at all.

9. The Appellant applied on 12 March 2013 for leave to remain as a Tier 4 (General) Student Migrant. The Appellant had relied upon a Confirmation of Acceptance for Studies (CAS) assigned by Park Royal College Limited.
10. By the time the Secretary of State was assessing that matter and the Tier 4 Sponsor register was checked on 11 December 2013, Park Royal College was no longer listed.
11. The Appellant submitted an application on the 12 March 2013. The Respondent had written to the Appellant on 22 June 2013 to inform the Appellant that a decision had been made to revoke the licence of Park Royal College Limited and no further consideration would be given to the application for a period of 60 days from 22 June 2013.
12. The purpose of the 60 day period was to allow the Appellant as an applicant to amend the application and submit a different sponsor so that if the Appellant did not wish to remove from the United Kingdom the Appellant could obtain a new CAS for a course of study at a fully licensed Tier 4 educational sponsor.
13. On 25 July 2013 the Respondent by letter further repeated the issues raised in the letter of 22 June 2013.
14. In the permission application to the Upper Tribunal the Appellant accepted that he had received the letter dated 22 June 2013 from the Home Office, on 24 June 2013 (paragraph 5). The Appellant in other grounds accepted receipt of the letter of 25 July 2013. The documents may show that the Appellant obtained a new CAS letter on 20 August 2013 but it does not appear that he submitted it on that date. On 21 August 2013 he says he sent the relevant documentation to the wrong UKBA address; copied from possibly an email of 19 September 2013. The Appellant also acknowledged that he received a letter from the UKBA under reference 100200339784 in which the Respondent put the Appellant on notice that

she had not received the application. There was no evidence in the papers provided that showed if the Appellant ever sent an application to the UKBA at the correct address with the necessary documentation.

15. Calculating the 60 days from 22 June 2013 and making allowance for that being a Saturday, the delivery was not likely to occur until 24 June the documents would have been submitted to the correct part of the UK Border Agency by not later than 22/23 August 2013.
16. There is no evidence that it was submitted within that period. It appears that the Appellant put the Respondent on notice about these matters by possibly an email of 9 September 2013. A witness statement from the Appellant which is unsigned and undated asserted that the Appellant had been informed of the situation on 9 September 2013.
17. The fact that the Appellant was called in to provide the biometric information at an identified post office on 7 September 2013 was neither here nor there for the biometric process was not simply triggered by the receipt of an application. Thus the request to attend was no confirmation of any claim that the Appellant had made a valid application at the time.
18. If there is evidence to show the Appellant did submit the correct part of the application to UKBA, it is not in the several papers provided to me nor, it seems, was it in the papers provided to the First-tier Tribunal Judge.
19. If 22 June 2013 was taken as the starting date for the provision of the new material in 60 days and CAS letter in particular, the sixtieth day would have been 20 August 2013 as the earliest date.
20. The Appellant proceeded on the basis that it was not until a letter from the Respondent of 25 July that time started to run whereas it is clear from the correspondence it ran from 22 June 2013. It therefore may be as a fact the judge got it wrong in identifying that the Appellant was out of time in

any event by reference to the dates referred to but it seemed to me that he never, on the evidence, submitted to the UKBA the substitute CAS. In those circumstances, at the time the Respondent decided the matter, there was no CAS in being before the Secretary of State.

21. Accordingly the appeal failed. The grounds do not disclose any particular challenge to the judge's brief conclusion in relation to Article 8 and in the circumstances I find there is no material error of law disclosed by the grounds.

22. No anonymity order was sought nor is one made.

NOTICE OF DECISION

The appeal is dismissed.

TO THE RESPONDENT

FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 10 June 2015

Deputy Upper Tribunal Judge Davey