



IAC-FH-AR-V1

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

Appeal Numbers: IA/17925/2014
IA/17928/2014
IA/17931/2014
IA/17935/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 8 October 2015**

**Decision & Reasons Promulgated
On 26 October 2015**

Before

**THE HONOURABLE LORD BURNS
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE McWILLIAM**

Between

**ENYINNAYA CANISIUS IBE
DORIS ENYINNAYA IBE
CONRAD CHIEBUKA IBE
JEFFREY JOHN AKUMMA IBE
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Ijezie, Curling More Solicitors & Advocates
For the Respondent: Miss Holmes, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from the determination of the First-tier Tribunal of 11 May 2015 which dismissed the appeals of the principal appellant and his wife and two children who have linked appeals. We shall refer to the principal appellant as the appellant.
2. By a decision letter dated 27 March 2014 the respondent refused the appellant and his family leave to remain in the United Kingdom as Tier 1 (General) Migrants and directions were given for their removal.
3. The reasons given were, first, that he had failed to disclose a material fact, namely a previous police caution when completing Section E1 of the application form and, secondly, that the appellant had not provided sufficient evidence to satisfy the requirements of Appendix A of the Immigration Rules. The respondent was not satisfied as a consequence that he qualified for an award of the required 40 points. A decision had been made not to request additional documentation or exceptionally to consider the application under the provisions of paragraph 245AA. In the documentation the appellant did provide he had claimed a total of £37,384.74 for a previous earnings comprising £6,587.75 from his employment with the Saga Group and £30,796.99 net profit from his self-employment. While he had provided a letter from a firm of accountants named Akarams & Co together with certain documentation, the respondent was not satisfied that he had provided sufficient evidence to corroborate his self employed earnings as specified in Appendix A of the Immigration Rules.
4. In the reasons for refusal attached to the notice of appeal there was also contained a further reason as follows: "Your accountant is also not regulated by any of the recognised regulated bodies, therefore we are unable to accept the documents supplied by them." Appendix A of the rules required this matter to be certified. For some reason that remains unexplained, the letter of refusal contained in the respondent's bundle did not contain that reason for refusal.
5. The appellant appealed to the Tribunal. Because the ground of refusal relating to the status of the appellant's accountant did not appear in the copy of the refusal letter contained in the respondent's bundle, the appellant did not produce any documentation to the Tribunal demonstrating that the accountants who had provided information were regulated in terms of Appendix A. It was submitted that the respondent had, in effect, conceded that the accountant's regulatory status was not being questioned in the appeal.
7. It was submitted on behalf of the appellant that the documentation provided by the accountant satisfied in full the requirements of Appendix A both in respect of his employed earnings and his earnings from self employment.
8. In relation to the matter of the accountant's regulatory status, the Tribunal viewed that reason of refusal as an operative one. There was no evidence before it that the appellant's accountants were members of a regulated organisation. The Tribunal also found that the statements from the accountants did not appear to be detailed

enough as required by Appendix A. The Tribunal accepted that the non-disclosure of a police caution was not required by the rules. The Tribunal dismissed the appellants' appeal and the linked appeals of his family.

9. The appellant appealed against that decision to the Upper Tribunal. Mr Ijezie appeared before us on behalf of the appellants. He argued that there was a material procedural error in respect of the two differing versions of the letter of refusal of leave which violated Rule 24 of the Tribunal Procedure (First-tier Tribunal) Immigration and Asylum Chamber Rules 2014. The process was procedurally unfair since the appellant had been misled into believing that one of the reasons for refusal had been abandoned. The appellant legitimately understood that it was not necessary for him to provide evidence that his accountant was properly regulated as required by Appendix A.
10. Mr Ijezie did not contend that the Secretary of State ought to have exercised any discretion under paragraph 245AA of the Rules.
11. Since the date of the First-tier Tribunal's determination, a letter from his accountants dated 4 December 2014 has been produced which purports to state that the firm is "of Association Certified Public Accountants of Great Britain" (*sic*) and the author of the letter is a fellow member of "the board of Association Certified Public Accounts of Great Britain". This was the letter which would have been produced to the First-tier Tribunal had the appellant thought that the matter was being contested by the respondent.
13. Paragraph 19G of Appendix A of the rules provides that, if earnings are for work done while in the UK, the evidence which is required in relation to previous earnings must come from an accountant or accountancy firm in the UK who is a member of one of eight listed recognised supervisory bodies. Mr Ijezie accepted before this Tribunal that Akarams & Company was not a member of any such recognised supervisory body.
14. In that event, even if the appellant had not been misled as he claims to have been, and had provided the letter now tendered, the Tribunal could not have found that the accountants were a member of a recognised supervisory body as required by that rule in Appendix A. Indeed had the letter been produced by the appellant before the Tribunal, it would not have been admissible (pursuant to section 85A of the 2002 Act) because it was not submitted with the application.
15. Accordingly, it cannot be said that there was any material error of law in the way that the Tribunal approached the matter. On no view could the appellant have satisfied the terms of the rules and the Tribunal's decision is one that cannot be impugned. The requirement of the rules is of importance since the provenance and reliability of accounts and other information from professional bodies such as accountants requires to be instantly verifiable.

16. For these reasons we will refuse the appeal.

Notice of Decision

The appeal is dismissed under the Immigration Rules.

No anonymity direction is made.

Signed

Date

Lord Burns
Sitting as a Judge of the Upper Tribunal