



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

Appeal Number: IA/27285/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 14 August 2015**

**Decision and Reasons
Promulgated
On 20 August 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE KAMARA

Between

**MR PARISH RATILAL JADAV
(ANONYMITY DIRECTION NOT MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Michael Wainwright, legal representative, Chancery CS Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal against the decision, promulgated on 18 March 2015, of First-tier Tribunal Judge Bowler (hereinafter referred to as the FTTJ).

Background

2. The appellant applied for further leave to remain as a Tier 4 (General) student on 23 May 2014 in order to follow a NQF level 6 Diploma in Tourism and Hospitality Management at Newcastle Academy of Business and Technology. That application was refused on 16 June 2014 as the respondent considered that he had failed to achieve the minimum standard of English required. Reference was made to the appellant's IELTS certificate, which indicated that he had not scored a minimum of 5.5 in all components. Consequently no points were awarded for the Confirmation of Acceptance for Studies.
3. In his grounds of appeal, the appellant requested 60 days to appear at a further IELTS test so that he could provide results at level B2 or above.
4. At the hearing before the FTTJ, the appellant did not appear and nor was he represented. The FTTJ recorded that the respondent argued that the appellant had not shown that he was competent at "B1" of the Council of Europe's European Framework for Language in all four components as required by paragraph 118(b) of Appendix A to the Immigration Rules. The FTTJ considered that the appellant was required to show that he is competent in the English language to a minimum level "B1" but found that the appellant had not achieved 5.5 in each component owing to his score of 5.0 for writing.
5. The grounds of application argue, that the FTTJ erred in finding that the appellant had not met the English language requirement. Reference was made to Appendix A, at paragraph 118(b)(iii)(4), which showed that for courses below degree level, only level B1 English was required and the appellant had a lower band score to meet than for level B2.
6. FTTJ Frankish granted permission on the above basis, commenting that the appellant had lost an opportunity, by not attending, to demonstrate that his target was 5 rather than 5.5.
7. The Secretary of State lodged a Rule 24 response on 10 June 2015. In opposing the appeal, the respondent referred to [7] of the decision where reference was made to the appellant's request for 60 days to provide the test results. It was said to be unclear what documents were before the FTTJ and he could only have regard to documents submitted with the application.

Error of law

8. At the hearing before me, Mr Wainwright agreed with Mr Avery's preliminary view that there was a typographical error in the FTTJ's decision in that he wrote B1 rather than B2. Otherwise, Mr Wainwright conceded that the appellant's course was equivalent to degree level and therefore he was required to show competency in English at level B2 and not level B1.
9. In view of Mr Wainwright's concession, I had no hesitation in finding that

there was no material error of law in the FTTJ's decision.

10. The course the appellant proposed to take was a diploma at NQF level 6, which is equivalent to a bachelor's degree. Therefore the appellant was required to show that he was competent in the English language at B2 level in all four components. B1 competency is required for courses at below degree level.
11. As set out in paragraph 118(b) of Appendix A of the Rules, the appellant was required to score a minimum of 5.5 for each of the individual components. It is not in dispute that the appellant scored 5.0 for writing.
12. Accordingly, the FTTJ was correct at [12] to find that the appellant had not met the requirements of the paragraph 118(b) of Appendix A and at [13] to dismiss his appeal under the Immigration Rules.

Conclusions

- (1) The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
- (2) I uphold the decision of the FTTJ.

Signed:

Date: 16 August 2015

Deputy Upper Tribunal Judge Kamara