



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

Appeal Number: IA/30591/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 13 March 2015**

**Decision Promulgated
On 17 March 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE FROMM

Between

JASVIR SINGH

(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of India born on 18 April 1985. He entered the UK on 15 November 2010 with entry clearance as a Tier 4 (General) Student Migrant. He was granted further leave in the same category until 9 May 2015 but, on 6 June 2013, his leave was curtailed so as to expire on 17 March 2014. On 17 March 2014 he submitted an application for further leave but his application was refused on 14 July 2014 because the Confirmation of Acceptance for Studies ("CAS"), which had been assigned by 13 March 2014 to enable the appellant to study had been withdrawn by the sponsor. The appellant appealed and, in his grounds, complained about the college. He said he did not know why the CAS had been withdrawn. His course fees had not been refunded to

him. He wanted to complete his studies. He requested that his appeal be decided on the papers without an oral hearing.

2. A Judge of the First-tier Tribunal heard the appeal on 27 October 2014 in the Newport hearing centre. She dismissed the appeal under paragraphs 245ZX(c) and (d) of the Immigration Rules, HC395, because the CAS had been withdrawn by the date of decision. It was not open to her to find a breach of the common law duty of fairness. The decision was proportionate for article 8 purposes.
3. Unfortunately, in her decision, the judge made a number of errors: (1) she wrongly recorded the appellant as being Nigerian, (2) she wrongly recorded his date of birth, (3) she wrongly recorded the date of decision, and (4) she wrongly recorded that the appellant had requested an oral hearing. The appellant sought and was granted permission to appeal on the basis that the appellant could not be satisfied the judge had given adequate scrutiny to the facts of his case.
4. The respondent has filed a rule 24 response arguing the errors were “typographical” and there were no errors in the judge’s findings.
5. The appellant was unrepresented at the hearing before me. I checked he had been given adequate notice of the hearing before proceeding to hear the appeal in his absence. He has not filed submissions or further evidence.
6. Mr Walker did not adopt the reasoning of the rule 24 response and submitted the decision of the First-tier Tribunal should be set aside and re-made.
7. I agree that the judge’s decision contains very serious errors, as described, which are more than “typographical”. In some circumstances, I would not hesitate to find that a decision containing such errors was vitiated by legal error. It is vitally important that the parties can feel confident that the judge gave a fair hearing to the appeal and was aware of the facts underlying it. It is of particular concern that the judge records that this was an oral hearing whereas it was not: the appellant had requested a decision on the papers.
8. However, the judge correctly recorded the appellant's name in the heading. Her reference to the CAS number is also correct. It is therefore clear to me that she had the right case in mind when dealing with the substantive merits. I therefore regard the errors to be the result of carelessness in the preparation of the decision rather than disclosing a real concern that the judge was not applying her mind to the actual case before her.
9. I also note that, when considering the substantive merits of the appeal, the judge gave cogent reasons for dismissing the appeal under the rules, on fairness grounds and on human rights grounds. The grounds seeking permission to appeal do not address the substantive issues under appeal. It is entirely clear to me that the decisions reached by the judge on each ground of appeal was correctly made and that the facts do not give rise to the possibility of any other outcome. In the circumstances, there is no utility in setting aside

the decision only to re-make it in identical terms, as I would surely have done.

NOTICE OF DECISION

The First-tier Tribunal did not make a material error of law and its decision dismissing the appeal is confirmed.

No anonymity direction made.

Signed

Date 13 March 2015

**Judge Froom,
sitting as a Deputy Judge of the Upper
Tribunal**