



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

Appeal Number: IA/43130/2014

THE IMMIGRATION ACTS

Heard at Bradford

On 13th May 2015

**Decision & Reasons
Promulgated**

On 22nd May 2015

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MUHAMMAD UMAR FARAZ
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr Diwncyz, Home Office Presenting Officer

For the Respondent: Mr Ahmad, Haider Solicitors Ltd

DECISION AND REASONS

1. This is the Secretary of State's appeal against the decision of Judge Fox made following a hearing at Bradford on 30th December 2014.

Background

2. The claimant is a citizen of Pakistan born on 25th February 1992. On 21st March 2014 he made a combined application for leave to remain in the UK as a Tier 4 (General) Student Migrant under the points-based system which was refused with no right of appeal. He was then served with removal directions under Section 10 of the Immigration and Asylum Act 1999.
3. The judge said that he was satisfied from the papers that he was empowered to determine the appeal with a hearing and he resolved to do so in spite of the fact that it was clearly argued before him that there was no in country right of appeal. The judge went on to allow the appeal and unsurprisingly the Secretary of State has challenged his decision.
4. Section 82 identifies the type of immigration decision against which there is a right of appeal to the Asylum and Immigration Tribunal. The removal decision in this case is an immigration decision as defined by Section 82(2) (g).
5. Any right of appeal granted under Section 82 is subject to Section 92 of the 2002 Act. That identifies which types of immigration decision may be appealed by a person whilst he is still in the UK. Mr Ahmad conceded that the claimant could not, as he sought to do at the hearing, bring an in country right of appeal on human rights grounds because there was no reference to any claimed breach of the Human Rights Act or indeed the Race Relations Act at any stage prior to the hearing.
6. The claimant has never made a human rights claim whilst in the UK and he therefore cannot bring himself within Section 92(4) of the 2002 Act. An immigration decision which falls within Section 82(2)(g) of the 2002 Act is only capable of an out of country right of appeal. Accordingly he is entitled to appeal this decision only after he has left the UK.
7. The judge had no jurisdiction to determine the appeal.

Notice of Decision

The original judge erred in law. The decision is set aside. The appeal is dismissed for want of jurisdiction.

No anonymity direction is made.

Signed

Date

Upper Tribunal Judge Taylor