



IAC-TH-LW-V1

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

Appeal Number: IA/19213/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 11 February 2016**

**Decision & Reasons Promulgated  
On 23 February 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE APLEYARD**

**Between**

**MAJID ALI  
(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr N. Ahmed, Counsel

For the Respondent: Mr Paragraph Duffy, Home Office Presenting Officer.

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan who first entered the United Kingdom as a Tier 4 Student with leave until 18 September 2012. He was last granted further leave to remain in the United Kingdom until 20 September 2014. He made an application for further leave to remain as a Tier 4 (General) Student, which was refused on 11 May 2015 and a decision was made to remove him from the United Kingdom by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

2. The appellant appealed that decision and following a consideration of his appeal on papers at Sheldon Court, Birmingham, Judge of the First-tier Tribunal Asjad, in a decision promulgated on 21 August 2015, dismissed the appellant's appeal.
3. Permission to appeal was sought and granted by Judge of the First-tier Tribunal J. M. Holmes on 17 December 2015. His reasons for so granting are:-
  - "1. In a Decision promulgated on 21 August 2015 Judge Asjad dismissed the Appellant's appeal against the Respondent's decision to refuse to vary his leave to remain, and in consequence of her decision to remove him to Pakistan by reference to s47.
  2. The application was made in time.
  3. The Appellant was notified appropriately that the CAS he had submitted with his application was invalid as a result of the subsequent loss of its licence by his sponsor. The '60 day policy' was properly applied by the Respondent so that he was given on 12 January 2015 an opportunity to make a fresh application based upon a new CAS.
  4. The Judge appears to have accepted that the Appellant submitted a new valid CAS on 8 April 2015. The refusal to vary leave of 11 May 2015 made no reference to that new CAS, and referred solely to the CAS submitted with the original application. The Judge did not consider whether the papers submitted on 8 April 2015 had been overlooked, but dismissed the appeal apparently on the sole basis that the 60 day period had already expired by that date.
  5. Arguably the decision shows that the Judge proceeded on the assumption that the Appellant's leave was 'curtailed' 60 days after 12 January 2015, and that there was nothing the Appellant could do, or say, thereafter [5]. This was a very brief decision made on the papers - it arguably discloses an error of law in the Judge's approach to the valid CAS submitted on 8 April 2015, when the Respondent had identified no other reason than the lack of a valid CAS for her refusal of his application on 11 May 2015."
4. Thus the appeal came before me today.
5. I was told that for the reasons put forward within the appellant's grounds it was agreed that the valid CAS should have been considered by the judge and that this amounted to a material error of law. Both parties urged me to remit this appeal back to the Secretary of State for a lawful decision to be made. I queried with them my powers so to do as this is a decision dated 11 May 2015 and accordingly post the amendments made by the Immigration Act 2014 to Part 5 of the Nationality, Immigration and Asylum Act 2002 applicable on or after 6 April 2015. However I was shown the

transitional arrangements to the Immigration Act 2014 and both representatives urged me to accept that the proposed course was within my powers. I agree that that is the position.

**Decision**

6. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
7. I set aside the decision. I remake it by allowing the appeal to the limited extent that it is referred back to the respondent for a lawful decision to be made.
8. No anonymity order is made.

Signed

Date 17 February 2016.

Deputy Upper Tribunal Judge Appleyard