



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/24934/2012

THE IMMIGRATION ACTS

Heard at Field House
On 29 October 2013

Determination Promulgated
On 9 December 2013

Before

UPPER TRIBUNAL JUDGE PITT

Between

ZAHOOR ULLAH KHAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr F Junior, UK Immigration Consultants
For the Respondent: Mr T Wilding, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan and his date of birth is 25 October 1983.
2. This is an appeal against the decision dated 13 January 2013 of First-tier Tribunal Judge Bart-Stewart which dismissed the appellant's appeal against the respondent's

decision of 19 October 2012 which refused him further leave to remain as a Tier 4 (General) Student Migrant under the points-based system.

3. The only reason for refusal in the decision of 19 October 2012 was that the appellant had not shown that he could meet the maintenance requirement as set out in paragraph 1A(h) of Appendix C of HC 395 (the Immigration Rules) and he therefore could not meet the requirements of the substantive Immigration Rule which is paragraph 245ZX(d) of the Immigration Rules. This was because he had submitted a bank statement showing a balance only on one day, that being 3 July 2012.
4. It was not disputed that by the time this matter came before First-tier Tribunal Judge Bart-Stewart the appellant had provided an additional bank statement to that which was before the respondent. The second bank statement, the original of which was before me, showed the balance in the same account from 1 June 2012 to 14 December 2012.
5. It was accepted for the respondent that this document, had it been before the respondent, could have shown that the maintenance requirements were met.
6. However, at [8] of Judge Bart-Stewart's decision she indicates that she was precluded from accepting in evidence that second bank statement by the provisions of Section 85(4) of the 2002 Immigration Act.
7. Before me Mr Junior maintained that the provisions of paragraph 245AA meant that the respondent should have contacted the appellant prior to making the decision to request the more complete second bank statement.
8. Paragraph 245AA states:

245AA. Documents not submitted with applications

(a) Where Part 6A or any appendices referred to in Part 6A state that specified documents must be provided, the UK Border Agency will only consider documents that have been submitted with the application, and will only consider documents submitted after the application where they are submitted in accordance with subparagraph (b).

(b) If the applicant has submitted:

(i) A sequence of documents and some of the documents in the sequence have been omitted (for example, if one bank statement from a series is missing);

(ii) A document in the wrong format; or

(iii) A document that is a copy and not an original document, the UK Border Agency may contact the applicant or his representative in writing, and request the correct documents. The requested documents must be received by the UK Border Agency at the address specified in the request within 7 working days of the date of the request.

(c) The UK Border Agency will not request documents where a specified document has not been submitted (for example an English language certificate is missing), or where the UK Border Agency does not anticipate that addressing the omission or error referred to in subparagraph (b) will lead to a grant because the application will be refused for other reasons.

(d) If the applicant has submitted a specified document:

(i) in the wrong format, or


(ii) that is a copy and not an original document,

the application may be granted exceptionally, providing the UK Border Agency is satisfied that the specified documents are genuine and the applicant meets all the other requirements. The UK Border Agency reserves the right to request the specified original documents in the correct format in all cases where (b) applies, and to refuse applications if these documents are not provided as set out in (b).

9. Mr Junior maintained that the original bank statement at D1 of the respondent's bundle and the corresponding letter from the bank at D2 should be considered as a "sequence" of documents as described in paragraph 245AA(b)(i).
10. I did not find that I could agree with Mr Junior. It did not appear to me that the single bank statement showing a balance on a single day taken together with a letter from the bank could be described as a "sequence of documents" from which it could be said "some of the documents in the sequence have been omitted". I therefore did not find that paragraph 245AA of the Immigration Rules required the respondent to contact the appellant to obtain a fuller bank statement.
11. In the alternative Mr Junior sought to rely on a more recent version of paragraph 245AA which allows for the respondent to contact an applicant for further documents where a specified document is missing. However, Mr Junior conceded that this additional provision at paragraph 245AA(b)(iv) was not in force until October 2013 and therefore not at the date of decision or even the date of hearing before Judge Bart-Stewart. Where that was so, I did not find that these provisions applied to this appellant. It is also difficult to see that in this case a document was missing so as to require the respondent to contact the appellant for more where the appellant had submitted a bank statement, albeit one that could not meet the maintenance requirements in the Immigration Rules.
12. It was therefore not my view that Judge Bart-Stewart erred. Even had she been asked to consider paragraph 245AA and had done so, this could not have assisted the appellant.
13. I found that the appeal could not succeed and that the decision of Judge Bart-Stewart did not disclose an error on a point of law.

Decision

14. It is my view that the decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: 
Upper Tribunal Judge Pitt

Date: 14 November 2013