



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

Appeal Number: IA/25048/2014

THE IMMIGRATION ACTS

**Heard at Birmingham Sheldon Court
On 3 February 2015**

**Decision Promulgated
On 5 February 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

MANIFA ISLAM

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance by or for the appellant

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals to the Upper Tribunal against the determination of First-tier Tribunal Judge Kempton that was promulgated on 7 October 2014. Judge Kempton dismissed the appellant's appeal against the immigration decision of 31 May 2014 refusing to vary her leave to remain as a tier 4 (general) student migrant and at the same time to make a decision to remove her by way of directions.
2. Judge Kempton dismissed the appeal because the appellant had failed to show that she had provided adequate evidence to meet the maintenance (funds) requirements of paragraph 245ZX of the immigration rules (with

reference to appendix C) and because she had failed to provide evidence that she had a valid CAS number or authorisation to change college.

3. The grounds of appeal argue that the judge failed to make a finding as to whether the appellant had actually submitted relevant bank documents with her application. The appellant contended that she had submitted such documents but had not retained copies. In her second ground, the appellant argues that the Secretary of State had caused confusion as to whether the course provider's sponsorship licence had been suspended or withdrawn. The appellant submitted that the licence was only suspended and therefore she had continued to study at the named college. Although she admitted to pursuing additional courses at another college, there was no need for her to have prior authorisation to do so, as confirmed in Home Office guidance. The grounds end by identifying that the judge made no findings in respect of the appellant's private or family life rights as protected by article 8 of the human rights convention. No other grounds have been provided.
4. Mr McVeety relied on the rule 24 response of 3 December 2014 that opposed the appeal and had no submissions other than to say that the judge's decision and reasons were sound. He mentioned that the Home Office records contained details that the appellant had sought to make a "voluntary departure" to Bangladesh but this had been refused because the appellant had a pending criminal matter, although that is wholly unrelated to the immigration appeal.
5. I take no regard of the issues mentioned by Mr McVeety except to the extent that they confirm the appellant is still in the UK and that her address is the same as the one to which the Tribunal sent notice of hearing. Mr McVeety did not provide any evidence to confirm what he mentioned. I also take into account the fact that since the grounds were settled the appellant no longer benefits from legal representation. In light of these facts and having identified that the appellant was properly served with notice of hearing I decided to proceed in her absence as the issues arising in the grounds of appeal could be dealt with in her absence.
6. Turning to the grounds, I make the following findings.
7. I find there is nothing in the first ground. The issue the judge had to consider was whether the appellant had had the required funds available. She provided no evidence of her funds. She could have obtained duplicate bank statements from her bank, an obvious action for anyone in such a situation. Doing so might have added credence to her claim that it was not her fault that she did not have copies. However, her failure to provide any financial evidence meant even if she were to be believed in respect of having submitted documents to the Home Office with her application her appeal to the First-tier Tribunal was bound to fail.
8. The second issue is misguided. It was for the appellant to establish the facts and she provided no evidence from either college to confirm the issue regarding the sponsorship licences. Mere assertion is not enough to establish the facts.

9. The third issue is without merit as although the appellant mentioned human rights in the grounds of appeal to the First-tier Tribunal, she provided no evidence to indicate how her private life might be affected. She provided nothing to show that the immigration decision would undermine her moral or physical integrity. Even though the judge may have technically erred by failing to address the ground of appeal, it is understandable that he did not since it was not pursued at the hearing and in the absence of any evidence on the point. Any error is immaterial to the outcome.

Decision

The appeal to the Upper Tribunal is dismissed because there is no error on a point of law in Judge Kempton's determination.

The decision of the First-tier Tribunal is upheld.

Signed

Date

Deputy Judge of the Upper Tribunal