



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

Appeal Number: IA/31678/2014

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On 5 February 2016  
Prepared on 5 February 2016**

**Determination Promulgated  
On 10 February 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

**Between**

**KHURRAM JAMIL  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: Mr Ahmed, Counsel, instructed by Immigration Chambers Ilford

For the Respondent: Mr Kingham, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, born 1 January 1986, is a citizen of Pakistan. He first came to the UK to study with a valid grant of entry clearance as a Tier 4 student on 23 August 2009 until 31 January 2011. That leave was subsequently varied so that he enjoyed leave as Tier 1 Post Study Work Migrant until 1 June 2013.

2. The Appellant then made his first application for a variation of his leave as a Tier 1 Entrepreneur, which was refused, and a decision to remove him from the UK was also made. His appeal rights against that decision were exhausted on 12 February 2014.
3. The Appellant made a second application as a Tier 1 Entrepreneur on 7 May 2014 which was refused on 24 July 2014. The letter of reasons for that decision was then amended and reissued so that it bears the legend "24 July 2014 -reprinted 22 January 2015 with required amendments". It is agreed before me that this did not constitute a fresh decision, but simply an amendment to the reasons given for the decision of 24 July 2014.
4. It is agreed before me that although the letter of 24 July 2014 is poorly drafted it does contain the clear statement on the first page that the Appellant enjoyed no right of appeal against the decision. That stance is repeated with more force, and greater clarity, in the letter of 22 January 2015.
5. Notwithstanding this stance by the Respondent the Appellant lodged an appeal against the decision of 24 July 2014, and this came before First Tier Tribunal Judge Swinnerton on 5 June 2015. In a decision promulgated on 23 June 2015 he failed to engage with the jurisdiction point, although he noted its existence [21], and he dismissed the appeal.
6. The Appellant's application to the First Tier Tribunal for permission to appeal was granted by Judge Saffer on 16 November 2015. The grant of permission fails to engage with the jurisdiction point, and is addressed solely to the question of whether Judge Swinnerton had given any (or any adequate) reasons for the decision to dismiss the appeal.
7. Thus the matter comes before me.

#### Right of appeal?

8. After some discussion between the representatives, Mr Ahmed conceded on behalf of the Appellant that upon a true analysis of the chronology the decision under appeal had been to refuse to grant leave to one who had no leave at the time he made his application.
9. In the circumstances Mr Ahmed conceded that the Appellant had no right of appeal against the decision of 24 July 2014, and that neither the failure of the presenting officer to take the point forcefully at the hearing, nor the failure of the Judge to address the point, could remedy that.

#### Adequate reasons for the First Tier Tribunal decision?

10. It was agreed before me that the decision fell well short of the obligation to provide adequate reasons for a decision upon an appeal. The Appellant as the losing party is not able to identify from the decision what

evidence the Judge considered, the weight he attached to it, or how he arrived at the decision to dismiss the appeal.

### Conclusion

11. In the circumstances, and by consent, I am satisfied that the Determination of the First Tier Tribunal which was promulgated on 23 June 2015 did involve the making of an error of law in the decision to dismiss the appeal that requires that decision to be set aside and remade. I therefore set aside the decision to dismiss the appeal, and remake the decision so as to dismiss the appeal for want of any jurisdiction on the part of the Tribunal to entertain it.

### DECISION

The Determination of the First Tier Tribunal which was promulgated on 23 June 2015 did involve the making of an error of law in the decision to dismiss the appeal that requires that decision to be set aside and remade. I remake the decision so as to dismiss the appeal for want of any jurisdiction on the part of the Tribunal to entertain it.

### Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

The Appellant did not seek anonymity before the First Tier Tribunal, and no request for anonymity is made to me. There appears to be no proper basis for the Upper Tribunal to make such a direction of its own motion.

Deputy Upper Tribunal Judge JM Holmes  
Dated 5 February 2016