



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/37330/2013

THE IMMIGRATION ACTS

Heard at Field House
On 7 August 2014

Determination Promulgated
On 11 August 2014

Before

Deputy Upper Tribunal Judge MANUELL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MISS MADHURI DANDAMUDI

Respondent

Representation:

For the Appellant: Mr C Avery, Home Office Presenting Officer
For the Respondent: In person

DETERMINATION AND REASONS

1. The Appellant (the Secretary of State) appealed with permission granted by First-tier Tribunal Judge Pooler on 24 June 2014 against the determination of First-tier Tribunal Judge Aujla who had allowed the Respondent's appeal against the Secretary of State's decision dated 30 August 2013 in a determination promulgated on

3 June 2014. The Respondent is a national of India, who had applied for further leave to remain as a Tier 4 (General) Student Migrant, which was refused on the grounds that although the Appellant had submitted a valid CAS, she had not shown that she satisfied the maintenance requirement. The Appellant had provided a letter from the State Bank of India, stating that she had been given a loan of 5,000,000 Rupees, equivalent to £5,418.48. The Appellant was required to show that the loan was provided by the national government, the state or regional government or a government sponsored student loan company, or was part of an academic or educational scheme, but had not done so. The application was refused under paragraph 245ZX(d) of the Immigration Rules. The reasons for refusal letter conveying the decision to refuse to vary the Respondent's existing leave incorporated a second decision to remove the Respondent by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006.

2. Judge Pooler considered it arguable that Judge Aujla should not have concluded that the loan from the State Bank of India was a loan from the government of India. While the bank may be owned by the government of India, they are separate entities. There was no evidence that the bank was part of an academic or educational loans scheme.
3. Mr Avery for the Appellant relied on the onwards grounds and the grant of permission to appeal. He submitted that it was, as the First-tier Tribunal Judge had observed, a narrow point. The fact that the State Bank of India was government owned was not in dispute. The point which the judge had overlooked was that it was a separate entity. The connection between the loan and the state had not been shown. The judge had fallen into material error of law to have considered otherwise. The appeal fell to be dismissed because the Immigration Rules in force at the date of decision had not been met.
4. It was not necessary to call upon the Respondent who had attended in person.
5. At the conclusion of submissions the tribunal indicated that it found that the judge had not fallen into material error of law. The determination was full and careful, prepared by a very experienced judge. The document which he had been required to construe in

the context of an application for further leave to remain was dated 22 July 2013. Addressed to the Respondent, it was headed "State Bank of India" and further headed "Education Loan". The Respondent's unchallenged evidence was that her previous applications which had all been granted had been made on the same basis. [8] and [9] of the determination refer to the Respondent's witness statement dated 6 May 2014 in which that had been stated. It was not in dispute that the Respondent had paid her tuition fees amounting to £11,000 and was a genuine applicant.

6. The judge's conclusions are set out at [19] of his determination. He found that the education loan was sanctioned by the bank and was provided indirectly by the national government of India.
7. The tribunal should not interfere with a properly reasoned determination of a First-tier Tribunal judge unless there is a clear and material error of law. In the factual context of this appeal, the judge's conclusions were open to him. The bank's letter was perhaps slightly vague, which widened the scope for its construction. The judge had to decide the issue one way or another, and it is implicit that when doing so he should have had regard to the merits of the case, which were plainly in the Respondent's favour. The judge did not make the mistake of conflating the ownership of the State Bank of India with the government of India, because he found that the link was indirect. The key finding was the link.
8. Paragraph 245ZX(d) of the Immigration Rules refers to Appendix C, paragraphs 10 to 14. Paragraph 1B(d) of Appendix C is also applicable. It is as follows:

"(d) If the applicant is applying as a Tier 4 Migrant, an original loan letter from a financial institution regulated for the purpose of student loans by either the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) or, in the case of overseas accounts, the official regulatory body for the country the institution is in and where the money is held, which is dated no more than 6 months before the date of the application and clearly shows:

(1) the applicant's name, (2) the date of the letter, (3) the financial institution's name and logo, (4) the money available as a loan, (5) for applications for entry clearance, that the loan funds are or will

be available to the applicant before he travels to the UK, unless the loan is an academic or student loan from the applicant's country's national government and will be released to the applicant on arrival in the UK, (6) there are no conditions placed upon the release of the loan funds to the applicant, other than him making a successful application as a Tier 4 Migrant, and (7) the loan is provided by the national government, the state or regional government or a government sponsored student loan company or is part of an academic or educational loans scheme.”

9. In the tribunal’s view it was open to the judge to construe the State Bank of India letter dated 22 July 2013 as falling within Paragraph 1B(d)(7) of Appendix C, either as having been provided indirectly by the national government, or as part of an educational loans scheme. Indeed the latter construction might well be regarded as stronger still on the facts. But the judge’s construction was sufficient, and was adequately reasoned.
10. The Secretary of State’s appeal is dismissed.

DECISION

The making of the previous decision did not involve the making of an error on a point of law. The determination stands unchanged

Signed

Dated

Deputy Upper Tribunal Judge Manuell