



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/43496/2014

THE IMMIGRATION ACTS

Heard at Field House
On 20 November 2015

Decision & Reasons Promulgated
On 26 November 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

MOHAMMAD NOWSHAD KAMAL
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr Z. Khan, instructed by Londonium Solicitors

For the Respondent: Mr S. Staunton, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Bangladesh born on 30 June 1972.
2. He was granted leave to enter the UK as a Tier 4 (General) Student from 6 April 2010 until 30 November 2011. Thereafter his leave was extended. On 14 August 2012 he was granted further leave to remain until 14 August 2014. On 13 August he applied for further leave as a Tier 4 (General) Student. On 16 October 2014 his application was refused by the respondent on the basis that he had failed to show, as required by

Paragraph 1A of Appendix C of the Immigration Rules, that he was in possession of £8,080 for a consecutive 28 day period.

3. The appellant appealed and his appeal was heard by First-tier Tribunal (“FtT”) Judge O’Hagan.
4. The issue before the FtT was whether appellant satisfied the requirements of paragraphs 1A and 1B of Appendix C. These include the following:
 - 1A(a) The applicant must have the funds specified in the relevant part of Appendix C at the date of the application.
 - IA(c) If the applicant is applying as a Tier 4 Migrant, the applicant must have had the funds referred to in (a) above for a consecutive 28-day period of time.
 - IA(ca) If the applicant is applying for entry clearance or leave to remain as a Tier 4 Migrant, he must confirm that the funds referred to in (a) above are (i) available in the manner specified in paragraph 13 below for his use in studying and living in the UK; and (ii) that the funds will remain available in the manner specified in paragraph 13 below unless used to pay course fees and living costs
 - 1B(a)(i)(3) In all cases where Appendix C or Appendix E states that an applicant is required to provide specified documents, the specified documents are personal bank or building society statements which ... must cover ... a consecutive 28 day period of time if the applicant is applying as a Tier 4 Migrant ...”
5. The FtT found that the appellant satisfied all of the requirements of paragraph 1A. With respect to subparagraph 1A(c), the FtT stated, at paragraph [10] of the decision, that it

“... accepted that the appellant had the funds specified as at the date of his application and that he had done so for [a] consecutive 28 day period of time.”
6. The FtT did not accept, however, that that the appellant satisfied the requirements of paragraph 1B. There are four alternative routes by which 1B can be satisfied and the FtT reached the view that none were satisfied by the appellant and accordingly dismissed the appeal. With respect to 1B(a) the FtT stated at paragraph [12]

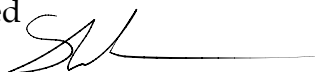
“... this route was clearly inapplicable in this case because the evidence supplied by the appellant plainly falls outside of [its] ambit”.
7. The grounds of appeal submit that the FtT materially erred by failing to recognise that the appellant met the requirements of paragraph 1(B)(a). The basis of this argument is that the FtT had before it, but failed to rely on, a letter dated 7 August 2014 from Pubali Bank. The contention made in the grounds, and reiterated by Mr Khan in submissions before me, is that this bank statement plainly fell within the ambit of paragraph 1B(a).
8. I agree with Mr Khan that this statement was before the FtT and was a matter it was required to consider in addressing the issue of whether the appellant satisfied paragraph 1B(a).
9. Careful review of this statement shows the following:

- It was printed on 7 August 2014
 - The period covered by the statement is 7 August 2014 until 7 August 2014
 - The statement shows that on 7 August 2014 the sum of 13,50,000.00 Bangladeshi currency was credited to the account
 - The statement shows the appellant's name, the account number and the stamp of the financial institution.
10. It is readily apparent that this statement does not show funds in the account for a consecutive period of 28 days as required by sub paragraph 1B(a). Rather, it shows funds in the account for one day only.
11. When this was put to Mr Khan at the error of law hearing he did not question the above described interpretation of the statement, or argue that there was another statement or statements before the FtT that should have been relied on. Instead, his argument was that the FtT had accepted that the appellant had the required funds for a consecutive 28 day period and this finding of fact should not be disturbed.
12. It is unclear why the FtT, at paragraph [10], accepted that the appellant had the requisite funds for the required period. No reason or explanation is given. What is clear, however, is that the FtT, in making this finding, was doing so with respect to paragraph 1A.
13. The issue before me, and in respect of which permission to appeal was granted, is whether the appellant satisfied the requirements of 1.B(a). Paragraph 1.B(a) requires that where, as in this case, an applicant is applying as a Tier 4 Migrant, bank statements must show a consecutive 28 day period of time. The bank statement upon which the appellant sought to rely does not cover a consecutive 28 day period and therefore the requirement under paragraph 1.B(a) is not satisfied. The FtT therefore did not err in law by finding that the evidence supplied by the appellant was not able to satisfy paragraph 1.B(a).

Decision

- a. The appeal is dismissed.
- b. The decision of the First-tier Tribunal did not involve the making of a material error of law and shall stand.
- c. No anonymity order is made.

Signed



Deputy Upper Tribunal Judge Sheridan

Dated: 23 November 2015