



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

Appeal Number: IA/42662/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 25 July 2017**

**Decision & Reasons Promulgated
On 10 August 2017**

Before

**MR C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE COKER**

Between

**ADNAN ANWAR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance.

For the Respondent: Mr T Wilding, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant has permission to appeal to this Tribunal following a grant of permission by the Vice President, which itself followed the quashing of an earlier refusal of permission by Order of the High Court, Mr Justice Turner.
2. The appellant has not appeared by himself or any representative. We proceed in his absence. The appellant had leave to remain in the United Kingdom until 30 October 2014. The Secretary of State appears to have decided on 8 May 2013 that his leave should be curtailed so as to expire on 7 July 2013. That decision was never in fact served. The appellant became aware of it on 20 October 2014 but it is not said, so far as we can

see, by either him or by the Secretary of State, that his becoming aware of that decision which had not been formally served constituted service of it - which would, in any event, have required a formal notice. No application was made for the extension of his leave before its expiry on 30 October. He appealed to the First-tier Tribunal apparently against the decision curtailing his leave and apparently on the basis that that decision, although only known by him in October 2014, was a decision on the date it was made, that is to say in May 2013. Judge Singh took the view that there was no right of appeal because the notice was in standard form, curtailing the appellant's leave but curtailing it only on the expiry of 60 days from the date of the decision. Under those circumstances, his leave extended beyond the date of the decision and this was not a case where as a result of the curtailment, he had, at the date of the decision, no leave.

3. That conclusion was evidently the subject of argument in the High Court leading to Mr Justice Turner's decision; we have not seen what that argument was, but it looks as though Mr Justice Turner may have been persuaded that the terms of s 82(2)(e) of the 2002 Act before amendment by the Immigration Act 2014 might enable the appellant to appeal against a notice of curtailment which was served on him at a time when he had no leave to curtail. With the greatest respect, if that is the reason why permission was granted, there may have been some misunderstanding: a curtailment can have no effect at all unless it takes effect during a period of leave.
4. It seems to us, therefore, that the position now is that although permission has been granted to appeal against Judge Singh's decision, there is no perceptible error in it; the curtailment decision, if served, was unappealable, if not served, could not found an appeal; there was no appeal before Judge Singh, as he correctly decided.
5. We are told that the appellant has, in any event, now been granted a residence card under the provisions of the Immigration (European Economic Area) Regulations; that may indeed explain why he appears to have taken no steps to pursue this appeal and it may therefore be that his position in the United Kingdom is sufficiently secure for his purposes.
6. So far as this appeal is concerned, we dismiss it.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 1 August 2017