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Date : 13 July 2009

THE IMMIGRATION ACTS

Appeal No: OA/68418/2008
Appellant: Mr, Adeel Hassan, Malik
Respondent: Entry Clearance Officer

HO Ref:
Port Ref:
FCNumber: 1553059
Reps Ref: QLA/ISB/1553059

To the Appellant and Respondent

Enclosed is the Tribunal's determination of the above appeal.

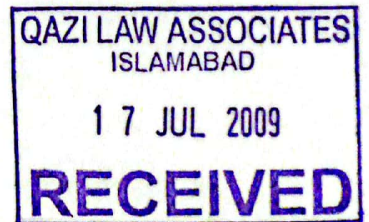
Either party may apply to the appropriate court (*the High Court or, where the Appeal was decided in Scotland, the Court of Session*) for a review of the Tribunal's decision on the ground of an error of law.

Any application must be made in accordance with the relevant Rules of Court and must be made within 5 days of receipt (or deemed receipt) of this determination, except where the Appellant is outside the United Kingdom, in which case any application by the Appellant must be made within 28 days of receipt (or deemed receipt) of this determination.

All applications must be sent to:

Secretary to the Asylum and Immigration Tribunal:

Arnhem House Review Applications, Arnhem Support Centre (Tribunal), P O Box 6987, Leicester, LE1 6ZX.
Fax: 0116 249 4214



Clerk to the Tribunal

Copy issued to Appellant: Mr, Adeel Hassan, Malik,
Copy issued to Home Office: Presenting Officers Unit Coventry Road, B26 3JS



ALL CORRESPONDENCE SHOULD BE SENT TO THE ADDRESS AT THE TOP OF THIS NOTICE QUOTING THE APPEAL NUMBER AND ANY HEARING DATE

THE IMMIGRATION ACTS

Heard at Walsall

Determination Promulgated

On: 29th June 2008

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13 JUL 2008

Before

IMMIGRATION JUDGE GHANI

Between

MR. ADEEL HAASAN MALIK

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: NOT REPRESENTED

For the Respondent: NOT REPRESENTED

DETERMINATION AND REASONS

The Appellants Details

1. The appellant is a Citizen of Pakistan and his date of birth is 16th July 1981.

Issues under Appeal

2. The appellant applied for entry clearance as a student for one year. He wishes to study Diploma in Hotel Management at London Reading College.
3. On 13th August 2008 the respondent refused to grant entry clearance.
4. On 11th September 2008 the appellant appealed against this decision.

The Proceedings

5. There was no appearance by either party and this appeal is to be determined solely on the basis of appears submitted to me.

The Burden and Standard of Proof

6. The Appellant must satisfy me on the balance of probabilities that he meets the requirements of Paragraph 57 of the Immigration Rules. Paragraph 57 states as follows.

“The requirements to be met by a person seeking leave to enter the United Kingdom as a student are that he:

- (i) has been accepted for a course of study which is to be provided by an organisation which is included on the Department for Education and Skills Register of Education and Training Providers, and is at either;
- (a) a publicly-funded institution of further or higher education; or
- (b) a *bona fide* private education institution which maintains satisfactory records of enrolment and attendance; or
- (c) an independent fee-paying school outside the maintained sector; and
- (ii) is able and intends to follow either:
- (a) a recognised full-time degree course at a publicly-funded institution further or higher education; or
- (b) a weekday full-time course involving attendance at a single institution for a minimum of 15 hours organised daytime study per week of a single subject, or directly related subjects; or
- (c) a full-time course of study at an independent fee-paying school; and
- (iii) if under the age of 16 years, is enrolled at an independent fee-paying school on a full-time course of studies which meets the requirements of the Education Act 1944; and
- (iv) If he has been accepted to study externally for a degree at a private education institution, he is also registered as an external student with the U.K degree awarding body; and
- (v) intends to leave the United Kingdom at the end of his studies; and
- (vi) does not intend to engage in business or take employment, except part-time or vacation work undertaken with the consent of the Secretary of State for Employment; and
- (vii) is able to meet the costs of his course and accommodation and the maintenance of himself and any dependants without taking employment or engaging in business or having recourse to public funds.”

The Respondent's Reasons For Refusal

7. The appellant produced an IELTS certificate showing a score of four. He has basic competence limited to familiar situations. He would have frequent problems in understanding and expression and is not able to use complex language. The respondent felt that he has a limited command of English and he will be required to understand complex phraseology in the his chosen course. The respondent was therefore not satisfied that he has the ability to follow the chosen course.
8. The cost of his tuition maintenance and accommodation is to be met by his parents. He submitted a personal bank statement. No evidence has been provided of regular income and outgoings or financial commitments of his sponsors. The balances on the account fluctuate considerably and it is clear that funds in this account are subject to considerable financial demands and commitments and not set aside specifically for the appellants studies. The respondent was not satisfied that he will be able to meet the cost of his course and maintain and accommodate himself without taking employment or without recourse to public funds.

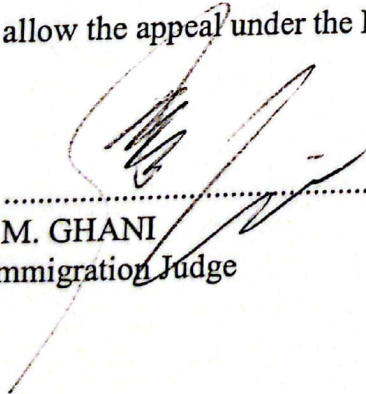
My Findings

9. I note that the appellant scored five in speaking module of the IELTS. Furthermore, the appellant has six months English proficiency course in English language from Rawalpindi College. He scored 69% marks in this certificate. The appellant maintains that he has been working in a four star hotel as receptionist and therefore has had considerable public dealings including foreigners. Furthermore, i note that the college would offer him an intensive English language studies should this be required. I also not that the appellant was not interviewed. If the ECO had genuine concerns regarding his ability the appellant should have been interviewed. Therefore on balance i find that the appellant does have the ability to follow his chosen course.
10. I note that the appellants father is employed with the Pakistan Atomic Energy Commission. His salary is 23,451.00 Rupees per month. He also receives housing subsidy of 7,762.00 Rupees per month. This gives him a combined income of 31,213.00 Rupees per month. The appellants father has fixed assets. His father holds a saving certificate and draws profit by way of interest from this. The total cost of the appellants studies will be £8,000. The appellant maintains that his father has more than 18,000 Lakh Rupees in his bank account. I have seen evidence of this from the National Bank of Pakistan and Allied Bank. It appears from the Allied bank that his father has managed to save monies over a considerable period. I therefore find that there would be sufficient funds for the appellant studies. I find that the appellant does comply with all the requirements of Paragraph 57.

Decision

11. I allow the appeal under the Immigration Rules.

Signed


M. GHANI
Immigration Judge

Dated 5/7/09