



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

Appeal Numbers: AA/04877/2013
AA/04990/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 13th September 2013**

**Determination Sent
On 18th September 2013**

Before

UPPER TRIBUNAL JUDGE RENTON

Between

**DC & PK
(ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms S Pinder, Counsel instructed by Krish Solicitors
For the Respondent: Ms A Everett, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellants are both citizens of Sri Lanka. They are husband and wife born respectively on 23rd October 1987 and 10th May 1984. They were individually granted leave to enter as students and subsequently applied for asylum. Those applications were refused and the Appellants appealed.

Their appeals were heard together by Judge of the First-tier Tribunal Rose (the Judge) sitting at Hatton Cross on 25th June 2013. He allowed both appeals on asylum and human rights grounds for the reasons given in his Determination. The Respondent sought leave to appeal that decision, and on 19th July 2013 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside. The Judge allowed the appeals because he found the Appellants to be credible and that their circumstances came within sufficient of the risk factors identified in **TK (Tamils - LP updated) Sri Lanka CG [2009] UKAIT 00049** to satisfy him that the Appellants were at risk on return.
3. The sole ground relied upon by the Respondent, and upon which permission to appeal was granted, is that the Judge erred in law in applying the country guidance case of **TK** whereas he should have applied the later country guidance case of **GJ and Others (Post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC)**. However, during the course of the hearing it transpired that the Judge decided the appeal and wrote his Determination on or before 3rd July 2013, that being the date of the Determination. The Determination in **GJ** is dated 5th July 2013 and could not have been promulgated prior to that date. Therefore I have to find that the Judge could not have been aware of the decision in **GJ** at the time that he wrote and signed his Determination, and therefore it cannot be an error of law for him not to have relied upon it.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal made an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed

Date

Upper Tribunal Judge Renton