



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

Appeal Number: AA/07830/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 18 December 2014**

**Decision & Reason Promulgated
On 29 December 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHAERF

Between

**NADARASASUNDARAM JEYATHEEPAN
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr C Avery of the Specialist Appeals Team

DECISION AND REASONS

The Appellant

1. The Appellant is a Sri Lankan Tamil born on 15 October 1990. On or about 22 June 2013 he arrived in the United Kingdom on a false passport. On 25 June 2013 he sought international surrogate protection on the basis that he feared return to Sri Lanka because he had been detained and tortured by the authorities by reason of his involvement or perceived involvement with the Liberation Tigers of Tamil Elam (LTTE).

2. On 3 August 2013 the Respondent refused the Appellant's application and proposed to make directions for his removal to Sri Lanka.
3. The Appellant lodged notice of appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002 as amended (the 2002 Act). The grounds re-assert his fear of return as a young Tamil who had been involved with the LTTE.

The First-tier Tribunal's Determination

4. By a determination sent by way of service on 27 September 2013 Judge of the First-tier Tribunal Hanes dismissed the appeal on all grounds. She made some adverse credibility findings at paragraph 16 and 18 of her determination. At paragraph 17 she also made some positive findings, principally that the Appellant had been tortured while detained in Sri Lanka.
5. She referred to the then recent country guidance determination of *Gj and Others (Post-civil war: returnees) [2013] UKUT 00319 (IAC)* and went on at paragraph 22 to find that the Appellant would not be at real risk on return to Sri Lanka.
6. On 8 November 2013 Judge of the First-tier Tribunal Davidge refused the Appellant permission to appeal. The grounds for appeal had been drafted by Counsel and complained that Judge Hanes had not adequately engaged with the risk categories identified in *Gj and Others*. The application on the same grounds was renewed to the Upper Tribunal and on 3 December 2013 Upper Tribunal Judge Reeds granted the Appellant permission to appeal because she considered that while the Appellant maintained he fell within the risk categories identified in *Gj and Others*, in the light of the observations of the Court of Appeal in *MP (Sri Lanka) v SSHD [2014] EWCA Civ 829* the grounds disclosed an arguable error of law. There was no further identification of the arguable error.

The Upper Tribunal Hearing

7. The hearing was set for 10am on Thursday 18 December 2014 at Field House. By shortly before 11am neither the Appellant nor any representative for him had appeared. Searches were made in the waiting areas of Field House which did not disclose the Appellant or any representative for him. No message had been left at the reception desk at Field House. I was satisfied that notice of the time, date and place set for the hearing had been properly given to the Appellant and Mr Avery for the Respondent confirmed the Respondent had no more recent address for the Appellant than the Tribunal. I noted there was a letter of 29 October 2014 from the Appellant's erstwhile representatives stating they had ceased to represent him because they were unable to contact him and they had been informed by a friend of the Appellant that the Appellant had left the United Kingdom. However I was not satisfied this was sufficient evidence

that the Appellant had left the United Kingdom so as to permit his appeal to be considered as abandoned under Section 104 of the 2002 Act.

8. I have carefully considered the grounds for appeal. The Appellant was represented by Counsel at the hearing in the First-tier Tribunal. The Judge set out the Appellant's evidence at some considerable length and made findings of fact and credibility for which she gave sustainable reasons. In particular she was satisfied he had been released by the authorities from detention after he had been tortured in circumstances which made it clear he was no longer of any interest to them. He had not been involved in any LTTE activities in the United Kingdom which might cause the Sri Lankan authorities to perceive him as a threat on return. She went on to dismiss the appeal on all grounds.
9. Given the nature and extent of the Judge's fact-finding and especially on the issue of risk on return, whether at the airport or after passing through the airport, for which she gave sustainable reasons, I do not find the grounds disclose an error of law such that the determination should be set aside in whole or in part. It follows that the grounds do not disclose an error of law and the determination shall therefore stand. Noting that the Appellant is now unrepresented I have also carefully considered the whole of the First-tier Tribunal's determination to see if it discloses any error of law and find that it does not.

Anonymity

10. There was no request before the First-tier Tribunal for an anonymity direction or order. Having considered the documents in the Tribunal file, I do not find that one is warranted.

NOTICE OF DECISION

The determination of the First-tier Tribunal did not contain an error of law and shall stand. The effect is that:-

**The appeal of the Appellant is dismissed.
The decision of the Respondent is upheld.**

Signed/Official Crest

Date 29. xii. 2014

Designated Judge Shaerf
A Deputy Judge of the Upper Tribunal

TO THE RESPONDENT: FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Signed/Official Crest

Date 29. xii. 2014

Designated Judge Shaerf
A Deputy Judge of the Upper Tribunal