



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

Appeal Number: AA/01061/2011

THE IMMIGRATION ACTS

**Heard at Field House
On 20 February 2015**

**Decision & Reasons Promulgated
On 12 March 2015**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

J S

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr S Walker, Home Office Presenting Officer

For the Respondent: Mr N Paramjorthy, Counsel

DECISION AND REASONS

1. This is an appeal with permission by the Secretary of State against the decision of Judge Goldmeier heard over a number of days between January and June last year concerning the appellant, as I will call her and the Secretary of State the respondent as they were before the First-tier Judge, who appealed the respondent's decision refusing asylum as long ago as 14 January 2011.
2. The judge explained why the hearing had to be as lengthy as it was and it was as Mr Paramjorthy has said today the consequence of there being a

good deal of oral evidence and the determination is very lengthy partly because of that and partly because of the fact that there was a good deal of background evidence but in the end the matter narrows to a fairly specific point.

3. The judge allowed the appeal essentially on the basis that he considered that the appellant would be at risk on the account of the activities of her husband who had been convicted in this country of money laundering in 2007 and that, the judge concluded, was an activity which would place him and as a consequence her at risk from the Sri Lankan authorities as being indicative of separatist-related activities and there was background evidence that the judge relied on, in particular from Dr Smith in relation to this. He also took into account, as he was bound to, the country guidance in GJ and some of the evidence he referred to specifically in relation to that, for example evidence of Mr Lewis, the country manager responsible for Sri Lankan returns at the Foreign & Commonwealth Office.
4. The judge's decision was challenged by the Secretary of State on the basis that as is said in the first main paragraph of the grounds the judge had failed to follow GJ and had failed to provide adequate reasons for finding that the appellant would be at risk due to her connections with her husband. It was noted that the judge had identified that it was this point of his money laundering conviction which led the judge to consider that she would be at risk but essentially making the point that as this had taken place two years before the end of the civil war the judge had not factored that in and taken that into account and had not taken into account also the finding of the Tribunal in the husband's case that that would not place him at risk.
5. The judge has to be commended I think in many respects for a very full and careful determination in which he has maintained an admirable balancing of and assessing the issues against the background evidence and he notes at paragraph 398 of the determination the conclusion of the panel in the husband's case that with regard to the money laundering he would be able to explain that he was acting under pressure and that meant he would not be at risk.
6. But the judge then went on to say at paragraph 399 that as a result of the country guidance case of GJ and the evidence of Mr Lewis, to whom I have just referred, there was material available that had not been before the panel in the husband's case. The first, he said, was a better understanding of the enquiries which the Sri Lankan authorities will make and the second was because of their fear of a Tamil militant resurgence the focus of concern had shifted from Sri Lanka to the Tamil hotspots abroad and the interest of the authorities as noted in GJ he considered was likely to be heightened in light of active LTTE fundraising about which Europol had reported and in the judge's view on the evidence her husband could expect an in-depth investigation which would be likely to give rise to ill-treatment.

7. He reminded himself that of course he was not dealing with the husband's appeal but the wife's but he noted that they would return as a family unit and he had to take regard of that reality in assessing the risk that the appellant faced and that his profile was a factor which would have to be taken into account when assessing the risk to her. She would be expected to tell the truth, the authorities would be aware that she had known her husband since 2004 and he went on then to anticipate the kind of questions she would be asked and the kind of problems that she would face.
8. I think that although it would be easy to say, well, in such a lengthy determination everything must have been considered one cannot obviously do that but it is the fact in my judgment that the judge has given consideration to this particular issue properly in the context of the relevant evidence. He was alive to the earlier determination but he saw reason why that conclusion was one that did not have to be followed in the circumstances before him in light of other evidence and the country guidance case and the fact that that had happened two years before the end of the hostilities was not a matter which put it outside the country guidance risk factors and he assessed the risk factors to the husband and as a consequence to the appellant and concluded that she did face a real risk and in my view that conclusion was properly open to the judge and as a consequence I find no error of law in the decision and that decision is therefore upheld.

Notice of Decision

The appeal is allowed on asylum grounds/human rights grounds.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date **20 February 2015**

Upper Tribunal Judge Allen

TO THE RESPONDENT FEE AWARD

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

Signed

Date **20 February 2015**

Upper Tribunal Judge Allen