



IAC-AH-DP-V1

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

Appeal Number: AA/00711/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 10 February 2016**

**Decision & Reasons
Promulgated
On 18 March 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

**N V (SRI LANKA)
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Solanki, Counsel instructed by Biruntha Solicitors
For the Respondent: Ms Fijiwala, Specialist Appeals Team

DECISION AND REASONS

1. The appellant appeals to the Upper Tribunal from the decision of the First-tier Tribunal (Judge Davidge sitting at Columbus House, Newport) dismissing his appeal against the decision of the Secretary of State to

refuse to recognise him as a refugee or as otherwise requiring international or human rights protection.

The Reasons for the Grant of Permission to Appeal

2. On 19 November 2015 First-tier Tribunal Judge McDade granted permission to appeal for the following reasons:

The grounds of application for permission to appeal are too long. The solicitors and Counsel should not have to take ten pages to identify and summarise what they consider to be errors of law. Nonetheless I consider there to be substance to the five grounds on which the application for permission to appeal is based namely that the Judge erred in her approach to the witness evidence of the appellant's father and his siblings, misinterpreted a Home Office concession by the respondent in relation to the appellant's role in the LTTE and gave little or no consideration to the appellant's medical evidence and photographs.

Relevant Background

3. The appellant is a Sri Lankan Tamil, whose date of birth is [] 1987. He said he was abducted, along with his younger sister, in July 2007 by the LTTE who had come to his parents' home looking for his older brother who was not there. He and his sister were taken to an LTTE training camp where they were separated after two weeks. The appellant spent a year in the camp at Sangamaankanni. Whilst he was there he received training in communications.
4. In 2008 he went to Colombo where he worked in global communications for about eight months. He was housed by the LTTE in Colombo, in a house with others. The LTTE opened a bank account for him, paid money into it and gave him instructions about the drawing and depositing of the money into other accounts or handing it over to others. He received telephone calls telling him where to deposit money and to pass on parcels. He would collect money from [S] and deposit it in accounts as well as calling at shops and collecting money and delivering that money to [S].
5. In March 2009 he stopped receiving phone calls giving him instructions. He waited until the end of March when he telephoned [S] to find out what was going on. [S] told him he had not received any phone calls either and the appellant should not contact him because he did not want any trouble. The appellant hid at his address in Colombo, living off the money that he had held for the LTTE.
6. In about August 2009 he asked his father for help as his money had run out. His father came to Colombo in August 2009 and moved the appellant to a different address in Colombo. His father told him that he had sent his younger sister to the United Kingdom. Between August 2009 and May 2012 the appellant lived with the people his father had introduced him to, studying English in the local area.

7. In May 2012 the appellant went to a large shopping centre in Colombo and ran into somebody he knew from the LTTE camp at Sangamaankanni. The appellant gave this person information as to his current address. A few days later he was abducted at gunpoint by four men in civilian clothes. He was held in a room and interrogated about what he had been doing with the LTTE, whether he had any weapons and whom he knew. Four days later he was taken by three different people to Homangna. The men who abducted him were part of the Karuna Group. The appellant was taken to a CID office where he was fingerprinted, before being taken back to Homangna. He was detained for a week in Homangna and subjected to torture including being burned with cigarettes and a heated spoon. The men referred to [S] by name and told him that the authorities had raided his (the appellant's) room and taken all his (LTTE) documents.
8. The appellant remained under CID control for a week. His father arranged his release using a Muslim contact who put him in touch with an MP who was able to locate him. His release was on the basis that the CID insisted he left the country so he could not cause problems for them, and in the meantime he had to move to and be kept at an address that they controlled. In June 2012, because his wounds were infected, two CID officers took him to hospital for treatment where he remained for two days. His parents came to see him. His father was allowed in to see him because he had paid a bribe, but his mother was not. His father took pictures of the appellant, which the appellant had subsequently produced in evidence.
9. In August 2012, the appellant applied for a visa with the help of the CID who took him to a visa building where he met his father and agent. The appellant went through the same procedure in December 2012, leading to a successful visa application. On 23 January 2013 two CID officers told him that his journey to the United Kingdom had been organised. He was taken to the airport where he met an agent, who was directed to use a specific check-in desk. The appellant was thus able to exit Colombo. His older sister picked him up from Heathrow Airport on 24 January 2013, and on 4 April 2013 he claimed asylum.
10. Since being in the UK, the appellant had been in touch with his father who advised him that the police had attended the family home requiring him (the father) to go to the police station for an investigation about the appellant. His father had contacted his lawyer who extended the date for questioning so that the lawyer could attend with his father.

The Hearing Before, and the Decision of, the First-tier Tribunal

11. Both parties were legally represented before Judge Davidge, who received oral evidence from the appellant and his older sister.
12. Having rehearsed the appellant's claim at paragraph [18] of her decision, the Judge addressed the sources of evidence relied on by the appellant one by one: the photographs taken of the appellant in the hospital; Dr

Lord's scarring report; a letter from the appellant's GP; a number of letters from a Sri Lankan attorney written between 19 May 2015 and 2 October 2015; a letter from the appellant's father; and an affidavit from the appellant's younger sister, who said she had arrived in the United Kingdom in 2008 as an unaccompanied asylum seeking minor; a witness statement from the appellant's older brother; and a witness statement and oral evidence from the appellant's older sister.

13. The Judge then turned to address the evidence given by the appellant. I set out below verbatim her findings at paragraphs [38] to [46]:

38. The Appellant's account is undermined in several significant aspects. There is incoherence in his description of being detained in 2012. In his screening interview he says he was arrested but not convicted from mid-May 2012, in his interview he says he was abducted by the militia TMVP/Karuna and held by them for four days before the CID took control of his detention, in the screening interview he said that his identity card was taken by the TMVP/Karuna group whilst in his witness statement at paragraph 22 he says that it was in the second period of his detention when he was with the CID that "they took my ID document" and that subsequently the CID told him that they had raided his room and taken "all my documents like my account number". In his oral evidence to me he told me that his ID documentation had been in his room and so in that context his account of having gone through some "arrest process" involving the production of his ID, taking of his fingerprints, and signing a Sinhalese document appears unreliable. The Appellant's characterising this as an arrest in his witness statement and explaining his failure to mention it previously is that he was nervous and scared at his interview. That is an explanation which I find inadequate in the context of an interview in which he was expressly asked to clarify whether he had been arrested or not and was clear that he had not been arrested it has the hallmarks of a statement made in an expedient effort to bring himself within a risk category of **GJ**.

39. The Appellant's description of his role in the LTTE has emerged in a piecemeal fashion. The Appellant complains that he was not asked enough direct questions at his interview to enable him to provide the sort of detail that he has subsequently added in response to cross-examination. That fails to recognise that he had the full opportunity of setting out his case in his witness statement and explaining exactly what he did. It did not assist him that it was only at court that he mentioned that not only had he kept a book of all the transactions for the LTTE in which he was involved, along with the instructions as to the account numbers that he had to pay money into or the details of parcels and money that he received and then had to pass on, he asserts he had bank receipts, and the LTTE even opened the account for him. Mrs Williams' point to him in cross-examination that it is inconceivable that he moved in 2009 taking all of that information with him, and then retained it for three years so that it was able to be discovered by the CID. The Appellant's explanation that he simply took all of his possessions with him and gave no thought to it is inconsistent with his claim that his movements when working for the LTTE were

restricted in order to preserve security, and that even when hostilities ceased, he remained effectively in hiding in the property.

40. In the Appellant's interview at Colombo for his student visa he indicated that he had taken A levels and computer courses in 2008 and that that was the last time that he studied achieving O and A levels and some diploma courses. He explains a gap in studying between 2008 and the time of the student application in 2012 on the basis of a lack of finances, a position improved by remittances from his sister in Australia who is a nurse. In the context of his appeal he and his father assert that it was after he moved from the LTTE house in 2009 that he studied.
41. The Appellant did not seek in his oral evidence to resile from the answers set out in the interview notes of his attendance at the British High Commission in Colombo on 29th August 2012. In his appeal the Appellant says that he played virtually no part in his student visa arrangements, having no contact with his father prior to meeting him minutes before he went into the embassy when he was handed his passport and the relevant documentation. In his interview he describes attending a seminar at BMICH and speaking to several colleges before choosing the one the subject of the student plans underlying the application. He explained he had done a written English exam and was able to speak in some detail. The interview notes sit uncomfortably with his account to me the documents were served at court on the day and I ensured that Counsel had a copy and I spent time in court in the presence of the representatives reading the document as did Counsel and I specifically raised the apparent inconsistent evidence between that of the Appellant, his father, the lawyer and the VAF forms with regard to the period following the Appellant's apparent leaving of the camp. Ms Bhatt's submission aimed at reconciling those differences was that even whilst he worked for the LTTE that would not have prevented him from studying. The difficulty is that that is not his case.
42. In short, country information whilst consistent with the account of pre cessation recruitment, and reveals that in that context youth such as the Appellant may have come to the attention of the authorities and be detained and suffered persecutory treatment, that would be pre rather than post and cessation of hostilities. Even accepting that the Appellant subsequently became a willing supporter or member of the LTTE, to the point that he was happy to go to Colombo and moved about money at their request, on his own account, his role was limited. There is no suggestion that post-conflict he had any involvement in the ongoing political struggle so that any willingness he had after recruitment fell far short of political commitment or dedication to post-conflict separatist movement so as to be significant in the assessment of risk post conflict. In that context his claim to have been of interest to the authorities more than three years after his last claimed involvement in March 2009 remains unexplained.
43. The Appellant made a late claim for asylum and that is a further matter which I consider adverse. He came to the United Kingdom he says in fear of his life and yet not only failed to claim on arrival, but failed to

do so even when in country having been met by family members. His family have a significant history of asylum seeking in the United Kingdom to the point that I find he knew the process. His claim that he was too frightened to claim asylum is inadequate in the context of the support available to him and undermining of his credibility generally.

44. The high point of the evidence is that of the lawyer however it is not determinative. Standing back and looking at the evidence in the round I find that the evidence as a whole is insufficient to establish that there is any real risk that the Appellant is on a stop list or a "watch list". The Appellant is not a Tamil activist in the context of **LG** and on my findings of fact his past history is of such limited involvement he has not established that there is any real risk he will be perceived by the Sri Lankan authorities as indicating a present risk.
45. From the findings set out above it will be apparent that I have concluded that the Appellant has not got a history of action so as to bring him within Article 1F of the Refugee Convention and Article 12(2) of the Qualification Direction.
46. In the context of the Appellant's Article 3 claim based on health I find that the evidence of the GP's letter falls far short of what is required to meet the Article 3 threshold. The evidence of the GP falls short of diagnosing the Appellant as having post-traumatic stress disorder or of being a significant risk of suicide.

The Rule 24 Response

14. Tony Melvin of the Specialist Appeals Team settled an extensive Rule 24 response on 3 December 2015 opposing the appeal. The findings which the Judge had made were open to her on the evidence, she having heard cross-examination and submissions. He relied on **VHR (unmeritorious grounds) Jamaica [2014] UKUT 367** for the proposition that appeals should not be mounted on the basis of a litany of forensic criticisms of particular findings of the First-tier Tribunal, whilst ignoring the basic legal tests which the appellant had to meet. The judge had considered the core of the appellant's claim and clearly found that he had embellished his evidence in an attempt to bring himself within the current country guidance in **GJ** where the emphasis was on current/future risk.
15. Mr Melvin also relied on **Shizad (sufficiency of reasons: set aside) [2013] UKUT 85** where it was held that the Upper Tribunal would not normally set aside the decision of the First-tier Tribunal where there had been no misdirection of law, the fact-finding process could not be criticised and the relevant country guidance had been taken into account, unless the conclusions the Judge had drawn from the primary data were not reasonably open to him or her. He submitted that the challenges amounted to no more than an attempt to reargue the appeal, and revealed no material error in law.

The Hearing in the Upper Tribunal

16. At the hearing before me to determine whether an error of law was made out, Ms Solanki, who did not appear below, developed the arguments advanced in the grounds of appeal. She clarified that the two main error of law challenges were both procedural. The first was that there was procedural unfairness in not allowing the appellant's father to give oral evidence by video link. The second, on which she placed greater weight, was a failure by the Judge to recognise and apply the concession which had been made in the refusal letter about the nature and scope of the appellant's LTTE activities. This had led the Judge to make adverse credibility findings against the appellant which were procedurally unfair.
17. In reply, Ms Holmes adhered to the position taken by her colleague, Mr Melvin, and she submitted that the two grounds of alleged procedural unfairness did not stand up to scrutiny.

Discussion

The first alleged procedural error

18. The substantive hearing of the appeal was originally scheduled to take place on 20 May 2015. At the beginning of May 2015, the appellant's solicitors wrote to the Tribunal in Newport requesting a video link facility so as to enable the appellant's father to give evidence from Sri Lanka by video link. On 11 May 2015 the Tribunal sent the following notice to both parties:

Following your fax dated 8 May 2015, we have placed this in the file back in front of the IJ who has said, 'we do not have this facility and are unable to transfer to another court for that purpose. Reps to produce witness statements of person in question'.

19. Both parties were legally represented at the hearing on 20 May 2015. Ms Bhatt of Counsel appeared on behalf of the appellant and she was the same Counsel who later appeared at the hearing before Judge Davidge. It is apparent from the Record of Proceedings that Ms Bhatt did not make an application for the appeal to be transferred to another court where a video link facility was available. She was content to proceed on the basis that the father's evidence would be conveyed through a witness statement.
20. The way the case is put by Ms Solanki is that it was unfair of Judge Davidge to make adverse credibility findings about the evidence of the father, based on inconsistencies between his written evidence and, for example, what was said by the lawyer, when the father had been willing to give oral evidence, and had thus been willing to have his evidence tested in cross-examination.
21. The task of the judge was to make findings on the evidence that was presented to her. It would have been entirely improper for her to speculate as to what the father might have said in cross-examination.

Moreover, the mere fact that the father had been willing to give oral evidence did not give his written evidence an elevated status or engender a presumption that his oral evidence would have been likely to dispel the inconsistencies which troubled the Judge. It was reasonable for the Judge to treat the father's evidence with caution as he was not (as she held) an independent witness. His willingness to give oral evidence by video link did not change this fundamental fact.

The second alleged procedural error

22. In the refusal letter, the respondent addressed the appellant's asserted LTTE membership at paragraphs 12 to 16. The respondent made the following concession at paragraph 16:

Due to the internal and external inconsistencies, this part of the claim - that you were forcibly recruited and worked for the LTTE until 2009 - has been accepted.

23. Although not canvassed in the refusal letter, the respondent later raised in correspondence the question of whether the appellant should be excluded from refugee protection under Article 1(F) as the appellant had stated in his asylum interview that he had become a willing participant in the LTTE's activities. One of the directions made by the Judge at the aborted hearing of 20 May 2015 was for the respondent to set out her case against the appellant under Article 1F(a) of the 1951 Convention.
24. Ms Bhatt's skeleton argument for the hearing before Judge Elvidge dealt extensively with the respondent's pleaded case on exclusion. At paragraph 22 she began her submissions on this topic with the following introduction:

If the appellant is found credible (my emphasis), the respondent seeks to rely upon Article 1F(a) of the 1951 Convention which excludes the appellant from protection.

25. Later, Ms Bhatt submitted:

He transferred money as per instructions. He did not know what the money was for and eventually the LTTE stopped contacting him and he was left to his own devices. He cannot be considered as a policy maker and nor can he be said to have 'committed' a crime.

26. Ms Bhatt has made a witness statement for the purposes of the appeal to the Upper Tribunal to which she has annexed her typed notes of the proceedings, excluding any submissions which were made at the outset, and excluding the closing submissions. There is however a full record of the appellant's cross-examination.
27. Initially, the appellant indicated in cross-examination that the account into which money was paid was controlled by the LTTE, and that it was not an account in his name, from which he could take out money. The Presenting Officer asked him whether he ever had access to take money out of an

account, and he answered no. Later on, he was cross-examined as to why he had retained incriminating documents despite having cut his ties to the LTTE in the summer of 2009. At this point, the appellant said that he had his own bank account. He was told when money came into his account and he was asked to transfer it or to withdraw it and hand it over to another person. The Presenting Officer put to him that this was inconsistent with what he had said earlier. The appellant said he was *also* maintaining his personal account and money went into it from the LTTE, not regularly, but occasionally. He was asked why the LTTE would allow him to pay money into his own account? He said he did not know.

28. The exchange continued:

Q. It would appear that you are lying about money being paid into your account or you held the position or authority which allowed you to put money into your own account - which is it?

A. It's not like that. I had an account that's true. Money was paid into my account sometimes and I withdrew it and put it into another account. I acted on what I was told.

29. In her subsequent decision, the Judge gave the following self-direction at paragraph [11]:

In the event I found the account credible, the issue I have to decide is whether as a former member of the LTTE, as the respondent argues, the appellant through willing financial management is a co-perpetrator, i.e. more than a mere accomplice, who participated in an extremely significant manner and at a leadership level, and without a defence of duress.

It will be noted that the Judge's self-direction is in line with what is contemplated by Ms Bhatt at paragraph 22 of her skeleton argument.

30. Ms Solanki submits that the criticisms made by the Judge of the appellant's evidence in paragraph [39] are unfair and irrational, having regard to the respondent's concession in the refusal letter and the procedural history. She also submits it was unfair the Judge in paragraphs [40] and [41] to criticise the appellant for inconsistent information in his Visa Application Form, as Ms Bhatt confirmed in her witness statement that the Judge had not asked any questions of the appellant on this topic.

31. Ms Solanki's submissions do not stand up to scrutiny. The respondent conceded in the refusal letter that the appellant had worked for the LTTE as a result of being forcibly recruited by the LTTE. The respondent did not concede the truth of the appellant's account of what happened to him after the end of the civil war in May 2009. The respondent also did not concede that the appellant was a willing participant in the LTTE. Although the distinction between forced recruit and willing participant was not drawn in the refusal letter, this distinction was drawn long before the appeal hearing as it was the central building block for the respondent's case on exclusion. Some of the answers which the appellant gave in his

asylum interview, including his claim to have been a willing participant, rendered him vulnerable to exclusion from refugee protection under Article 1F(a). This opened up a legitimate line of cross-examination (notwithstanding the concession at paragraph 16 of the refusal letter) on the related topics of (a) the appellant's state of mind, (b) his precise status and role within the LTTE network in Colombo and (c) his state of knowledge as to the purpose(s) of the money he was handling.

32. Ms Bhatt recognised that the exclusion issue raised by the respondent had a bearing on the credibility of the appellant's account of exactly what he did for the LTTE, notwithstanding the concession made in paragraph 16 of the refusal letter. This is apparent from the passage in her skeleton argument which I have cited above. If the appellant was credible in his account of being a willing participant, this provided a springboard for the case that he should be excluded from refugee protection. Conversely, if he was not credible in this aspect of his claim, and therefore had only been given a role and responsibility commensurate with someone who had been coerced into working for the LTTE, the exclusion issue fell away. The judge's self-direction at paragraph [11] reflected the understanding of the representatives on both sides.
33. Ms Solanki relied on **Kalidas (agreed facts - best practice) [2012] UKUT 0327 (IAC)** in which a panel chaired by Vice-President Mark Ockelton gave inter alia the following guidance:
- (i) Parties should assist the First-tier Tribunal at Case Management Review hearings to produce written confirmation of issues agreed and concessions made.
 - (vii) Judges look behind factual concessions in only exceptional circumstances. If the scope of a concession is unclear, or the relevant evidence develops in such a way that its extent and correctness need to be revisited, the Judge must draw that to the attention of the representatives. Adjournment may become necessary.
34. In **Kalidas**, the Judge's brief handwritten note of the CMR hearing included a note that the Home Office accepted that the appellant had been threatened by her father. A different Presenting Officer appeared at the substantive hearing of the appeal. He conducted an extensive cross-examination of the appellant, and in his subsequent decision the Judge gave extended reasons for finding that the evidence of the appellant was not credible. The representative for the appellant who appeared at both the CMR and the substantive hearing made no intervention during cross-examination because he did not believe that the questioning went to core credibility, but only to the geographical extent of the threat from the appellant's father and the practicality of internal relocation. In his decision, the First-tier Tribunal judge recorded that he had mentioned very forcefully during the hearing that he was not bound by the respondent's acceptance of a purported letter from the appellant's father. The Upper Tribunal found that nonetheless the proceedings were vitiated by procedural unfairness for two reasons. Firstly, because there was

communication between the appellant and her father not only by letter but also by telephone and through her sister, who gave evidence at the hearing. Secondly, while the Judge's warning was correctly issued, it did not go so far as to alert the representatives that any prior agreement on fact and credibility was no longer effective.

35. The facts of this case are very different. Firstly, as explored above, there was a common understanding that, notwithstanding the concession, there was a credibility issue with respect to the appellant's claim to have been a willing participant. Secondly, there is not a stark inconsistency between the Judge's findings and the concession made in the refusal letter; or between the Judge's findings and the case that was put forward by Ms Bhatt in her skeleton argument as to the appellant's low level involvement in the handling of money for the LTTE.
36. If the Judge had rejected altogether the appellant's account of his work for the LTTE, there would have been arguable unfairness. But the Judge does not reject the appellant's account. She simply observes at the beginning of paragraph [39] that his description of his role in the LTTE emerged in a piecemeal fashion. Ms Solanki submits that this observation is unfair, because it is only as a result of the respondent raising the exclusion issue that the appellant was asked to give further and better particulars of his role in the LTTE. But that does not detract from the point that, once the exclusion issue was raised, it was open to the appellant to set out in a witness statement exactly what he did for the LTTE so as to rebut the charge that his role and state of knowledge was such as to render him liable to exclusion from refugee protection under Article 1F(a).
37. Furthermore, the main adverse credibility point which emerged from the Presenting Officer's cross-examination was not related to the appellant's answers about what he did for the LTTE, but about what he claimed to have done *after* the end of the civil war. It was open to the Judge to find it incredible that, when he moved from LTTE accommodation in August 2009, the appellant took all of the incriminating documents with him, and then retained them for three years so they were able to be discovered by the CID.
38. It was not incumbent on the Judge to ask questions about apparent inconsistencies between what the appellant said in the interview notes of his attendance at the British High Commission in Colombo on 29 August 2012 and what the appellant had said by way of appeal. The Judge says in paragraph [41] that she specifically raised the apparent inconsistent evidence of the appellant, his father, the lawyer and the VAF forms with regard to the period following the appellant's apparent leaving of the camp. This is not denied by Ms Bhatt in her witness statement. She says that she does not recall making the submission which is attributed to her at the end of paragraph [41], but she agrees that she did make a submission which was aimed at reconciling the differences which troubled the judge.

39. The Judge says she spent some time in court in the presence of the representatives' reading the interview notes which were served at court on the day. I infer from this that the exchange between her and Ms Bhatt took place before the appellant was called as a witness, rather than afterwards. Thus Ms Bhatt had the opportunity to examine the appellant in-chief on the interview notes, but declined to do so.
40. Accordingly, for the above reasons, I find that the two principal error of law challenges are not made out. These are contained in ground 2 (the father's witness evidence) and ground 4 (the appellant's evidence). Both these grounds contain some additional criticisms, which I find to be no more than an expression of disagreement with findings that were reasonably open to the Judge for the reasons that she gave.

The evidence of the Sri Lankan lawyer

41. Ground 1 is in essence that it was not fair, or in accordance with applicable legal principles, for the Judge to suggest that the Sri Lanka lawyer might not be telling the truth in asserting, for example, that he had managed to obtain the release of the appellant's father on the condition that, if the appellant returned, he would advise the police accordingly, "to enable them to arrest and deal with him". The Judge characterised this at paragraph [26] as being the high point of the evidence.
42. At paragraph [17], the Judge said she had in mind the case of **PJ (Sri Lanka) v SSHD [2014] EWCA Civ 1014** because she had correspondence from a Sri Lankan attorney. At paragraph [28], she found that the evidence of the Sri Lankan attorney was not of the character and quality of the documentary evidence provided by the attorneys in the case of **PJ**. Not only were there two attorneys in that case, but court documentation was available that was not amenable to the influence of bribery. In contrast, she found, here there was no formal documentation provided in support of the attorney's correspondence. Without such documentation the contents of the letters from the attorney could not be verified. The evidence of the lawyer was not of a character to be determinative of the issue as to whether or not the authorities had any continuing interest in the appellant as per the risk categories set out in the case of **GJ**. Rather it was somewhat limited evidence which was bound to be assessed in the round, as per **Tanveer Ahmed**.
43. I consider the Judge has given adequate reasons for finding that the evidence of the Sri Lankan lawyer, although the high point of the appellant's evidence, was not of sufficient weight to be determinative.

The evidence of the siblings

44. Ground 3 was not developed by Ms Solanki in oral argument, and rightly so, as it is vexatious. It is simply untrue that the Judge did not give reasons as to why she was attaching little weight to the evidence of the

appellant's siblings. The Judge gave more than adequate reasons in paragraph [35], which takes up nearly half a page.

The medical evidence and the photographs

45. Ground 5 is that the Judge appeared to attach no weight to the medical evidence in her overall assessment of credibility, citing **Mibanga v SSHD [2005] EWCA Civ 367**. As previously noted, the Judge addressed the medical evidence and the photographs first, before going on to consider other pieces of evidence. So the proposition that there has been non-compliance with the guidance given by the Court of Appeal in **Mibanga** is wholly without merit. The Judge acknowledged that the photographs were capable of corroborating the appellant's account of having suffered injury and receiving treatment in consequence. The Judge acknowledged Dr Lord's opinion that the scars observed by him in May 2013 were diagnostic of burns. However, as the Judge also noted, Dr Lord said it was impossible to date the injuries. The Judge accepted that the evidence of the appellant's GP was capable of corroborating the appellant's account of past ill-treatment, while also observing that the issue as to the circumstances and timing of the same were matters which were dependent on his credibility.

Notice of Decision

The decision of the First-tier Tribunal did not contain an error of law, and accordingly the decision stands. This appeal to the Upper Tribunal is dismissed.

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 him or any member of their 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

Deputy Upper Tribunal Judge Monson

