



IAC-FH-NL-V1

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

Appeal Number: AA/04441/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 27 January 2016**

**Decision & Reasons Promulgated
On 11 February 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

**X I C
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Paramjorthy, Counsel, instructed by Tamil Welfare Association (Romford Road)

For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Khawar (the judge), promulgated on 2 November 2015, in which he dismissed the appeal on all grounds. The appeal to the First-tier Tribunal arose from the decision of the Respondent, dated 24 February 2015, refusing the asylum and human rights claims and giving directions to remove the Appellant from the United Kingdom under Section 10 of the Immigration and Asylum Act 1999.

2. In essence the Appellant's protection claim was based on perceived assistance for the LTTE and adverse consequences resulting therefrom. It was said that the Appellant had experienced some difficulties between the years 2000 and 2004. He came to this country in 2007 and then returned to Sri Lanka. It was also said that in 2013 he was arrested by the Sri Lankan authorities, accused of helping the LTTE and then released with reporting conditions. The Appellant claimed that he left the country in breach of those conditions and that subsequently an arrest warrant had been issued against him. As a result of these matters he claimed to be at risk on return to Sri Lanka.

The decision of the Judge

3. In a concise decision the judge rejected all material elements of the Appellant's claim. He made a number of adverse credibility findings relating to inconsistencies, a lack of detail, the absence of supporting evidence and implausibilities. In respect of the risk on return the judge held that in any event, having regard to the country guidance case of GJ & Others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 319 (IAC), this particular Appellant would not be at risk on return. He dealt with Article 8 briefly and found that there would be no breach.

Grounds of appeal and grant of permission

4. The Appellant sought permission to appeal, relying upon six grounds all of which attacked various elements of the judge's credibility findings. Permission to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Grimmett on 26 November 2015.

The hearing before me

5. Mr Paramjorthy, in his customary fair and realistic manner, accepted that some aspects of the grounds of appeal were stronger than others. In essence, he sought to rely primarily on grounds 1, 2 and 3 and accepted that grounds 5 and 6 lacked real merit. Mr Kotas urged me to look at the decision of the judge as a whole and also relied on the alternative finding at paragraph 44. In reply Mr Paramjorthy acknowledged that there was perhaps less evidence before the judge than might otherwise have been the case but nonetheless the judge had failed to engage properly with the evidence before him. There had been a lack of anxious scrutiny and on balance there were material errors of law.

My error of law decision

6. At the hearing I announced to the parties that I found there to be no material errors of law in the judge's decision. I now give my reasons for this conclusion.
7. Although the grounds take issue with particular findings, I must, and indeed do, consider the judge's decision as a whole. In respect of paragraph 33 it is true that the judge did not specifically refer to the relevant part of the asylum interview which has been replicated in the grounds of appeal. However it is clear to me that he had the interview in

mind given that it was the core item of evidence in the appeal (there being no witness statement from the Appellant). Having looked at the relevant part of the asylum interview myself, it is right that some information was provided by the Appellant but taking matters as a whole it was open to the judge to find that there were insufficient particulars in respect of the claimed events. Even if the judge had erred in a failure to specifically refer to the relevant evidence, in my view this error was clearly not material.

8. Still on paragraph 33, the judge referred to an inconsistency in the Appellant's evidence, referring to questions 123 and 139 of the asylum interview. The grounds allege that the judge failed to look at the Appellant's answer at question 140. It is right that the judge does not refer to that particular answer. However, upon inspection the answer given at question 140 in fact only goes to further undermine the Appellant's evidence and it is manifestly clear to me the judge was entitled to hold the point against the Appellant in respect of what was in fact a material inconsistency. It is perhaps unfortunate that later on in the same paragraph the judge failed to set out all of the other apparent examples of inconsistencies in the evidence. Nonetheless this does not constitute any error, or any material error, of law.
9. Paragraph 35 of the determination is not in fact challenged at all in the grounds of appeal. I find that it was entirely open to the judge to reach the adverse findings contained therein.
10. In respect of paragraph 36, as Mr Paramjorthy implicitly acknowledged, the complaint contained within the grounds of appeal amounts to nothing more than a simple disagreement, and the finding within that paragraph was once again open to the judge.
11. The adverse finding in paragraph 37 has not been challenged in the grounds of appeal and was open to him in any event.
12. The judge was also entitled to find in paragraph 38 that the claimed movements of the Appellant within Colombo did not constitute a concerted attempt to move from place to place in order to avoid a risk from the authorities.
13. Ground 6 of the grounds, as acknowledged by Mr Paramjorthy, lacks merit and amounts to nothing more than another disagreement.
14. The findings in paragraph 39 relating to the wife's injury were entirely open to the judge, as were the findings in paragraphs 40, 41 and 42.
15. In paragraph 43 the judge states that he took account of the cumulative effect of all of his previous adverse findings when reaching the ultimate conclusion that the claim put forward was not a true one. On that basis the appeal was bound to fail and it was entirely open to the judge to conclude that that was in fact the case.

16. In addition, on the alternative finding at paragraph 44, the judge was entitled to find that there would be no risk in light of the country guidance in GJ. The Article 8 conclusions have not been challenged.
17. In light of the above there are no material errors of law and the decision of the First-tier Tribunal shall stand.

Anonymity

18. Although no direction was made by the First-tier Tribunal judge, I do make one in the circumstances of this case. I note that a direction was made at the pre-hearing review stage of this appeal.

Notice of Decision

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

The Appellant's appeal to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands.

Anonymity Direction

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. This direction has been made in order to protect the Appellant from serious harm, having regard to the interests of justice and the principle of proportionality.

Signed

Date: 8 February 2016

Deputy Upper Tribunal Judge Norton-Taylor

TO THE RESPONDENT **FEE AWARD**

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

Signed

Date: 8 February 2016

Deputy Upper Tribunal Judge Norton-Taylor