



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

Appeal Number: AA/08862/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 8 May 2017**

**Decision & Reasons Promulgated
On 19 May 2017**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**D T
(anonymity direction made)**

and

Appellant

Respondent

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Representation:

For the appellant: Ms S Iqbal of Counsel

For the respondent: Ms J Isherwood, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Sri Lanka born on [] 1991, appealed against the decision of the First-tier Tribunal Judge Blackwell promulgated on 28 July 2016. Permission to appeal was initially refused by Upper Tribunal Judge Deans on 23 August 2016 and granted by Upper Tribunal Judge Blum on 26 September 2016 stating that it is arguable that the Judge gave insufficiently clear reasons for why the appellant's claim never to have been moved during her detention and her claim not to have been charged or

brought before a court, would undermine the evidence that she may have been detained at a secret camp. The permission Judge further noted that it was also not entirely clear why he found that the appellant's camp was "undoubtedly" part of the "Manik farm" and given that was one of the core findings which supported the Judges rejection of the appellant's account, the Judge's conclusions were arguably insufficiently reasoned.

2. The First-tier Tribunal Judge in his decision stated the following which I summarise. He found that credibility of the appellant to be a key factor for her claim for international protection in this country. The assessment of credibility/into account the medical evidence. Dr Robin Lawrence provided a psychiatrist report dated 12 December 2014 and his diagnosis is that the appellant is suffering from depression and PTSD and is on medication. Dr Rowlands gave consideration as to whether the account by the appellant is, in effect, manufactured or whether it is genuine and Dr Rowlands opinion was that the account given by the appellant is accurate.
3. The Judge noted that Dr Lawrence did not find that the suicide risk should be categorised other than as low. The Judge accepted that the appellant is suffering from PTSD but did not accept that it was as a result of her detention and torture and said it could have occurred due to the general country situation of Sri Lanka.
4. In respect of the documentation provided by the appellant, the Judge applied the guidance given in the case of **Tanveer Ahmed [2002] UKIAT 439** to the documents and found them not to be credible.
5. The documents were a police letter dated 23 March 2015 and an Internet article dated 30 March 2015. In respect of the first document, the Judge noted that the document was in pristine condition and noted that the paper in which the notary information was written would appear to be genuine but could not discount that the sheet of paper itself was obtained in order for specific wording to be added thereto other than by a police officer. The Judge's concerns about the second document of 30 March 2015, were much stronger. He noted that the extracted article has some phrases in English although the article has been written in Sinhalese. He also found that the credibility of the document was further compromised because the copyright date for the article is stated as 2014 although the article was posted on 30 March 2015. The Judge noted that the appellant's ability to raise sufficient funds to buy a passport and enlist the services of an agent to arrange her flights via Japan, it cannot be discounted that there would have been funds for the provision of further false documents or articles to be obtained to support the appellant's appeal.

6. The Judge noted that the appellant claims that she was detained in a camp for a period of three years. Although it is accepted that there were detention camps but they were officially closed during the end of September 2012 and hostilities ended in 2009, this claim detention was not consistent with the appellant's account that she remained in the camp, until her escape in 2014.
7. The Judge noted that the appellant has not provided any objective evidence to confirm that that she was detained and the camp where she was detained, remained open either beyond the general closure of other camps in 2014 or that the particular camp remained as a detention centre or former prison for particular individuals of Tamil ethnicity. It is of some significance that other than the initial act of claimed detention, the appellant did not assert that she had ever been arrested or that she had faced any formal charge or summons before any court or Tribunal, whether formal or informal. Therefore, no reason can be found for why the appellant would have been detained in one of the camps when the authorities had closed such establishments in September 2012. Therefore, the appellant's account that she escaped from the camp, by paying a bribe it is strongly doubted.
8. The critical aspect of the appellant's evidence in assessing her credibility is the claim that she was released from the camp in February 2014. The country guidance case, including that submitted on behalf of the appellant the Bangla Chetttilulam camp was undoubtedly a part of what was termed "Manik farm".
9. The Human Rights Watch World Report 2013 makes clear that Manik Farm, included the Bangla Chetttilulam camp, closed in September 2012. This is a very reliable source and the information accords with other country information which states that nationwide such camps were closed in September 2012.
10. The appellant was very clear in her evidence that she never moved during the whole period of her detention from 2011 to February 2014. Mention was made of secret camps which may have continued after the general closure of camps on of September 2014. This cannot be applicable to the circumstances of the appellant because of her own evidence she remained throughout her detention in Bangla Chetttilulam camp. In Dr Smiths report he categorically stated that he was not aware of the existence of Bangla Chetttilulam camp during the period of 2012 until February 2014.
11. It cannot be ruled out that the appellant's diagnosis of PTSD is attributable to the conditions during the civil war in Sri Lanka. It is not accepted that the

appellant has told the truth and it cannot be believed that any of the stated episodes of mistreatment occurred. Her entire claim has been fabricated and the supporting documents have been generated as was her false Sri Lankan passport. The appellant came to this country looking for a better life and is not a genuine refugee.

12. Weight is given to the screening interview but it is extraordinary that the appellant would not have mentioned what was later to become the main feature of her claim that she was detained. The appellant made a very expensive journey to this country in the company of an agent. She has a sister who attended boarding school. It would appear that this family who were able to access financial resources which, for a Tamil family in Sri Lanka, was probably a very significant sum.
13. The grounds of appeals are as follows. It is quite clear that despite the Judge concluding that the screening interview should be treated with caution, especially taking into account the appellant's explanations of the omissions at paragraph 49-50 of the decision failed to accord the appellant with either the relevant benefit of doubt, given her traumatic experiences and/or he has failed to treat the screening interview with caution. Instead it would appear that the Judge was influenced by the omissions in the appellant's answers, in particular failing to mention her arrest/detention. The Judge erred in his approach and fairly weighed these matters against the appellant.
14. In respect of the detention camps the Judge acknowledges that even the expert, Dr Smith, was unable to confirm the existence of the Bangla Chettilulam camp and neither does the background material disclose a camp with this name. This is not surprising because background evidence submitted highlighted the continuing use of secret camps beyond September 2012. This therefore corroborates the appellant's evidence to the lower standard of proof applicable that she was held until February 2014 in the Bangla Chettilulam camp, which may well have been the secret camp sites that was still operating post-closure of the named camps in September 2012. This is especially so, in light of the fact that the camp has not been specifically located, in the background materials. The Judge's assumption that the particular camp is part of the Manik farm camp is not only unfair but also unreasonable. The operation of secret camps by the Sri Lankan authorities is well documented and therefore it is plausible that the appellant was held at a secret camp.
15. In respect of the medical evidence the appellant produced a psychiatrist report dated 12 December 2014 from Dr Robin Lawrence and she also presented evidence that she was receiving assistance from a

psychotherapist given her traumatic experiences and is suffering PTSD, as a consequence. The Judge accepts at paragraph 408 of the decision that the appellant was suffering from PTSD but rejected that it was due to her experiences at a secret camp in Sri Lanka.

16. The Judge's approach to the report is completely inconsistent with the guidance given in the case of ***Mibanga [2005] EWCA Civ 367*** that states that an individual's account of torture and fear of persecution should be considered as part of the entirety of the evidence to be taken into account on the issue of credibility. The torture that the appellant claimed she suffered at the hands of the authorities includes rape, sexual assault, beatings and the forced abortion from a pregnancy resulting from the rape. The expert report concluded that the appellant's state of mind is consistent with the ill treatment she suffered.
17. While the Judge correctly stated that it is a matter for him to determine whether the appellant's account is accurate, his approach has shown a lack of understanding in relation to the expert evidence and the role it plays in relation to the credibility of the appellant's account. The Judge has considered the medical report in a vacuum such that his approach highlights a material error.
18. The Judge's rejection of the appellant's claim is based upon the premise that the appellant's account of being held until February 2014, cannot be true, given background evidence that demonstrates that all IDP camps closed in September 2012. However, the Judge failed to accord the appellant with the benefit of doubt given the detailed evidence of the brutal torture she was subject to, taken together with the evidence of camps operating beyond 4 September 2012. The Judge's approach is not fair and has failed to exercise the most anxious scrutiny to the low standard of proof applicable in relation to the appellant's claim.
19. At the hearing, I heard submissions from both parties as to whether there is an error of law in the decision of the First-tier Tribunal.

Decision as to whether there is an error of law

20. I have given anxious scrutiny to the decision of First-tier Tribunal Judge and have taken into account the grounds of appeal and the submissions made at the hearing. The grounds of appeal argue that the Judge did not give the appellant the benefit of the doubt that she was detained at Bangla Chettikulam camp which was a secret camp which operated after the closure of all camps in Sri Lanka in 2012. The Grounds also argued that the Judge further erred when the Judge accepted that the Bangla Chettikulam camp was part of the Manik farm without any background evidence to

substantiate his assumption. The Judge also fell into error by relying on the omission at her screening interview where she did not mention that she had been detained in Sri Lanka.

21. It was accepted that the main issue in this appeal was the credibility of the appellant which in turn went to the credibility of her claim that she was detained and tortured in a secret camp in Sri Lanka because everything flows from her claim that she was detained. The Judge found that the appellant's claim that she was detained and tortured at Bangla Chetttilulam camp had been fabricated by her and that she was an economic refugee.
22. The complaint against the Judge is that he found that the Bangla Chetttilulam camp was undoubtedly a part of what was termed "Manik farm". Mr Smith's in his expert report stated that it is *likely* that the Bangla Chetttilulam camp was part of the Manik farm. The Judge said it was "*undoubtedly*" a part of the Manik farm. (*Emphasis mine*). The Judge also relied on Human Rights Watch report that it was part of the Manik camp. The Judge may have overstated the certainty that it was part of the Manik camp but there was evidence upon which he made this finding. In any event, I do not find it a material error of law because the main issue in this appeal is the credibility of the appellant and whether she was detained until 2014.
23. The Judge took into account that even the expert, Mr Smith, did not know about this secret camp where the appellant claimed that she was detained. He however did state that there were secret camps in Sri Lanka which held people beyond 2012, when other camps had closed. The only evidence that this camp existed was the appellant's evidence. The Judge correctly stated that there was no objective evidence before him that such a camp existed. Indeed, even the expert did not know about its existence as of 2017 when information about secret camps became well documented as was stated in the grounds of appeal.
24. The appellant's evidence is that she was never a member of the LTTE and did not assist them in any way and never came to the attention of the authorities. The Judge was right to find it is not be credible for her to be arrested and taken straight to a secret camp and held beyond 2012 when she had nothing to do with the LTTE. Mr Smith in his report states that only those who had links to the LTTE were kept in secret camps when all the camps were closed in 2012. The appellant has never had any links to the LTTE and therefore it was found not credible that the appellant would be detained even after all the camps were closed, given her non-profile as an LTTE supporter. Background evidence states that the secret camps were for people with connections with the LTTE who the authorities found were still

dangerous to the State. It must have become clear to the authorities after her interrogation she did not have anything to do with the LTTE. The Judge was entitled to take this evidence into account in finding that the appellant was not credible.

25. The Judge took into account the expert report in which it was stated that the appellant's PTSD is **consistent (emphasis mine)** with the torture that she claims to have suffered while in detention. The Judge found that her PTSD could have happened due to the general country situation in Sri Lanka which traumatised a lot of people. The Judge was entitled to so find because the medical report did not rule out the possibility that the appellant's PTSD could not have happened in the manner suggested by the Judge. There is no perversity to this reasoning.
26. In respect of the screening interview Judge was entitled to take into account a pivotal omission in her screening interview where she made no mention that she had been detained in Sri Lanka in a secret camp, which subsequently became the main plank of her asylum claim. A Judge is entitled to take into account the omission of the main plank of the asylum claim, at the first available opportunity. The Judge was also entitled to find that it was extraordinary that the appellant would not mention her detention at a secret camp at her screening interview which then became pivotal to her claim for asylum. The Judge gave himself the proper direction and said that this omission was considered in the round and not in isolation. There is no misdirection in law or fact in this conclusion.
27. The Judge relied on the guidance in the case of **Tanveer Ahmed [2002] UKIAT 439** in respect of the two documents provided by the appellant. The Judge did not find the documents credible for cogent reasons. He found that the police letter dated 23 March 2015 was in "pristine condition" and stated, "the paper in which the notary information was written would appear itself to be genuine although I cannot discount that the sheet of paper itself was obtained in order for specific wording to be added thereto other than by a police officer". The Judge gave credible reasons for not relying on this document and for not finding the document credible.
28. The Judge found that the second document which was an Internet article dated 30 March 2015 was also not credible for stronger reasons. He was entitled to find that the article in which the majority of the text is in Sinhalese, would have phrases in English. The Judge also noted that the article claims to have been written on 30 March 2015 but the copyright date for the article is stated as 2014 which is also clearly not credible.

29. The Judge was of the view that given the appellant's ability to raise sufficient funds to buy a false passport, to provide funds for an agent to accompany her, including flights via Japan, it cannot be discounted that there would have been funds for the provision of further false documents or articles. The Judge was entitled to find the appellant who provided documents which were clearly not credible, also goes to her credibility and to the credibility of her claim.
30. The Judge considered the entirety of the evidence for his conclusions that the appellant is not credible and nor is her claim credible. The grounds of appeal are no more than a quarrel with the decision and are without merit.
31. I have no difficulty in understanding the decision and the reasons why the Judge came to the conclusion that he did. The judge found that the appellant had manufactured her entire evidence and that she was an economic refugee. No other differently constituted Tribunal would reach a different conclusion, on the evidence in this appeal.
32. There is no material error in the decision of the First-tier Tribunal Judge. I therefore uphold the decision of the First-tier Tribunal and dismiss the appellant's appeal.

DECISION

Appeal dismissed

Dated this 15th day of May

2017

Signed by

Deputy Judge of the Upper Tribunal

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Mrs S Chana