



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

Appeal Number: PA/10174/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 5 September 2017**

**Decision & Reasons Promulgated  
On 20 September 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**K L  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Anzani, Counsel

For the Respondent: Mr I Jarvis, Home Office Presenting Officer

**DECISION ON ERROR OF LAW**

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge M A Khan dismissing his appeal against the decision of the respondent made on 14 September 2016 to refuse him asylum and humanitarian protection.

2. The appellant is a Sri Lankan national born on [ ] 2005. He is 12 years old. He entered the UK as an unaccompanied minor on 12 March 2016. His claim for asylum was based on his fear that if he returned to Sri Lanka he would face mistreatment on the basis of his imputed political opinion as his father was a fighter for the LTTE and due to his race as a Tamil.
3. At the hearing before Judge Khan, the appellant did not give evidence. The judge heard oral evidence from the appellant's father and his maternal aunt, Mrs Kusmawathy Loganathan.
4. The facts of the appellant's claim are set out at paragraphs 3 to 7 of the respondent's detailed Reasons for Refusal Letter and dated 14 September 2016.
5. The judge dismissed the appellant's appeal for reasons set out at paragraphs 37 to paragraph 53.
6. Permission to appeal was granted by First-tier Tribunal Judge Ford as follows:

*"2. Having read the record of proceedings from the hearing that was adjourned in October 2016, it is arguable that Judge Khan may have misunderstood the reason for that adjournment, which appear to be because the Appellant's father had made an asylum claim, the Appellant's father suffered from psychiatric problems and it was being argued that he would be unable to care for the Appellant. It was argued that there should be linking to any appeal by the Appellant's father. For reasons that are unclear no directions were made for the linking or for filing of further evidence and I can see no mention in the ROP of any mental health assessment of this Appellant. Judge Khan records at paragraph 7 that (as the Tribunal was informed by counsel) the matter was adjourned in October 2016 for medical expert evidence to be obtained and decided that there had been ample time in which to do so. The Tribunal may have erred in concluding that the adjournment was to allow for medical reports to be filed for this Appellant. The Appellant's representatives argue that as they did not receive the most recent CAMHs evidence concerning the Appellant until a few days before the hearing in June, they had no time in which to arrange for a full assessment. Counsel expressed concern about the Appellant's weight loss and mental condition.*

3. *It is arguable that the Tribunal erred in*

- a. *Refusing the adjournment application partly because the Tribunal wrongly understood that the Tribunal had already granted time for the Appellant to file his own expert psychiatric report.*

4. *There is an arguable material error of law.*"

7. At the hearing before me Ms Anzani relied on her grounds of appeal. Mr Jarvis submitted that there was some strength in the grounds. He submitted that it was correctly stated at ground 4 that at paragraph 42 of the determination, the judge misread the Sri Lankan police book and in so doing materially erred in fact. There were two police complaints lodged by the appellant's uncle, the first relating to the appellant's mother and brother being taken by armed individuals on 25 March 2014 (following which they were released), and the second to them being taken by military officers on 5 March 2016, and to them still being missing. The Immigration Judge made no reference to the latter complaint at any point in the determination.
8. Mr Jarvis also accepted that the judge failed to properly grasp the nature of the medical evidence. The judge did not factor into his decision the evidence that the appellant had been diagnosed with PTSD and moderate deception. In the light of the submissions made by Mr. Jarvis, I found that there was merit in the grounds lodged on behalf of the appellant.
9. It would also appear that the solicitors did not have sight of the copies of the medical reports until late, and were not in a position to commission a full psychiatric assessment of the appellant in time for the hearing.
10. For the above reasons, I found that the judge made material errors of law such that his decision could not stand. The decision has to be remade. It is remitted to Hatton Cross for rehearing by a judge other than First-tier Tribunal Judge M A Khan.

**Directions**

1. Appeal to be remitted to Hatton Cross.
2. Possibly two witnesses.
3. Tamil interpreter required.
4. Time estimate three hours.
5. An up-to-date bundle of documents should be submitted within fourteen days of the date of hearing.
6. Anonymity direction upheld.

Signed

Date: 19 September 2017

Deputy Upper Tribunal Judge Eshun