



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001932
First-tier Tribunal No:
PA/52883/2020
IA/02657/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 16 July 2023

Before

UPPER TRIBUNAL JUDGE OWENS

Between

DGMCD
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME OFFICE

Respondent

Decided on the papers with the consent of the parties

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Abebrese dismissing his appeal against the decision dated 7 December 2020 refusing his protection and human rights claim.
2. The judge found the appellant to be entirely lacking in credibility and dismissed the appeal on all grounds.
3. The grounds assert that the judge failed to assess the medical evidence and that the judge failed to treat the appellant as a vulnerable witness. It is also asserted that the judge failed to make a finding on whether the

appellant had been the victim of torture, that he failed to apply the Country guidance and that he failed to carry out an Article 8 ECHR balancing exercise.

4. Permission was granted by First-tier Tribunal Judge Curtis on 26 May 2023 in a detailed decision setting out some of the deficiencies in the decision including the judge's failure to make a finding as to whether the appellant was previously tortured in Sri Lanka, particularly when the medical report was supportive of the appellant's account.
5. By a rule 24 notice dated 7 June 2023, the respondent conceded that the judge failed to make findings on the psychiatric report and the appellant's overall credibility regarding his diaspora activities as well as the risk on return to Sri Lanka. The respondent indicated that she did not oppose the appellant's application for permission to appeal and invited the Tribunal to set aside the decision in full and remit the appeal to the First -tier Tribunal for a fresh hearing.
6. On 27 June 2023 the appellant's representatives stated in writing that they were in agreement with this course of action. I am satisfied that both parties have given their consent for the appeal to be decided on the papers and for the decision to be set aside and remitted. In these circumstances I am not required to give detailed reasons pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008.
7. I am satisfied that the respondent's concession is appropriate in that the judge failed to make findings on the appellant's evidence that he was tortured and on his diaspora activities and I therefore set aside the decision in its entirety.
8. I am also in agreement, that given the number of findings which need to be made, the appropriate disposal of this appeal is to depart from the normal course and remit the appeal to the First-tier Tribunal for a fresh hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law.
2. The decision is set aside in its entirety.
3. The appeal is remitted to the First-tier Tribunal to be heard de novo by a judge other than First-tier Tribunal Judge Abebrese.

R J Owens

Judge of the Upper Tribunal
Immigration and Asylum Chamber

6 July 2023

