



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2024-001799
First-tier Tribunal No:
HU/53576/2023

THE IMMIGRATION ACTS

Decision & Reasons
Issued:
On the 13 June 2024

Before

Upper Tribunal Judge BLUNDELL
Deputy Upper Tribunal Judge MANUELL

Between

Mrs JEYAMALAR PARAMESWARAN
(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Heard at Field House on 7 June 2024

Representation:

For the Appellant: Mr P Lewis, Counsel
(instructed by Birnberg Pierce Solicitors)
For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Saffer on 18 April 2024, against the decision of First-tier Tribunal Judge Abebrese who had dismissed the appeal of the Appellant against the refusal of her Article 8 ECHR family and private life settlement claim. The decision and reasons was promulgated on 14 March 2024.

2. The Appellant is a national of Sri Lanka of Tamil ethnicity, born on 12 December 1949, a widow. The Appellant had last entered the United Kingdom on 27 June 2022 as a visitor, with her late husband who had sadly died on 23 December 2023. On 5 December 2022 the Appellant and her late husband had applied for leave to remain on Article 8 ECHR grounds, which was refused by the Respondent on 24 February 2023.
3. Judge Abebrese found that the Appellant could reintegrate into Sri Lanka on her own without facing very significant obstacles. She had lived there almost all her life. Her medical conditions did not reach the threshold indicated in case law. The appeal was dismissed.
4. First-tier Tribunal Judge Saffer considered that it was arguable that Judge Abebrese had materially erred by failing to assess all the relevant factors in the case or had not given adequate reasons for his findings. The lack of care in the proofreading of the decision was of concern as it showed a lack of care.
5. Mr Clarke for the Respondent indicated at the start of the hearing that the Appellant's appeal was not opposed. The grounds of appeal were made out. The decision was manifestly inadequately reasoned.
6. Mr Lewis for the Appellant indicated that he was content with the concession and wished to add nothing. He submitted that the appeal should be reheard before another judge in the First-tier Tribunal, with no findings preserved.
7. The Tribunal agreed that the Judge's decision was inadequately reasoned, to the extent that the hearing was not a fair one. The decision contained unfortunate and numerous typographical errors, notably that the Appellant's gender was frequently and repeatedly misstated. While such errors might not in themselves amount to a material error of law, it is almost inevitable that they will undermine confidence in the decision.
8. The main section of the Judge's reasoning appears at [13] to [15] of his brief decision, barely three full paragraphs in an appeal which had two experts' reports as well as

witness evidence. The paragraph numbering is wrong and the judge mentions only one of the reports at [12]. There was almost no discussion of the evidence which had been put forward nor of the Appellant's significant change of circumstances beyond her control, the death of her husband since their arrival in the United Kingdom. There was no discussion of the Appellant's claim that she feared problems from the Sri Lankan government because of her son's involvement in separatist political activities in the United Kingdom. It was difficult to discern the basis of the judge's findings.

9. The decision cannot stand and must be set aside and remade, at a further hearing in the First-tier Tribunal, with no findings preserved, before another judge.

DECISION

The appeal to the Upper Tribunal is allowed. The making of the previous decision involved the making of material errors on a point of law. The decision is set aside.

No findings of fact are preserved. The appeal is remitted to the Taylor House Hearing Centre to be reheard by any judge except Judge Abebrese.

Signed R J Manuell **Dated** 11 June 2024
Deputy Upper Tribunal Judge Manuell