



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

Appeal Number: AA/06287/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 18 June 2015**

**Decision & Reasons Promulgated  
On 22 June 2015**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS  
DEPUTY UPPER TRIBUNAL JUDGE HILL QC**

**Between**

**L T  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss V Laughton, Counsel instructed by Tamil Welfare Association

For the Respondent: Miss A Fijiwala, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 we make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. We make this order because there is always a risk in cases such as this of a person being put at risk solely because his claim attracting publicity.
2. We allow this appeal and these are our reasons.
3. This is an appeal against the decision of the First-tier Tribunal dismissing the appellant's appeal against a decision of the Secretary of State denying him asylum in the United Kingdom.

4. The main point taken in the grounds of appeal and in the skeleton argument before us is that the First-tier Tribunal Judge did not deal adequately or at all with medical evidence going to the mental health of the appellant. We find this very significant because, although the First-tier Tribunal Judge gave several reasons for disbelieving the appellant, amongst the reasons seen to be the best were examples of inconsistencies in the account. However these could have been the result of the appellant's apparent mental ill health rather than as a result of dishonesty on the part of the appellant.
5. There was before the First-tier Tribunal clear evidence that the appellant's mental health was not ideal. There is a medical report from a general medical practitioner. It was not signed but no one took any point on this. There was no reason to think that it was a forgery. The report showed that in response to a questionnaire, which is a perfectly proper method of diagnosis in these circumstances, the appellant gave a score suggesting that he suffered from moderately severe depression and moderate anxiety and that he was prescribed medication by the medical practitioner to deal with his "anxiety/depression/posttraumatic stress".
6. It is not obvious to us from this medical evidence just how the apparent ill health might have impacted on the appellant's ability to give an account of himself. This is something which ought to have been investigated. It was left out of the Decision.
7. We have more than a little sympathy for the First-tier Tribunal Judge because, as far as we can see, neither the grounds of appeal nor the skeleton argument suggested that the appellant gave wrong, confusing or inadequate answers because of his mental health. This surprised us a little, especially as he was represented by Counsel (not Miss Laughton) and it would have been more attractive from the appellant's point of view to be able to say that the point was pursued with vigour and ignored by the judge.
8. Nevertheless, the fact of the matter is that it was clearly raised. Not only was it there in the medical report, which the judge acknowledged reading, but it was also raised in correspondence with the Tribunal from the Appellant's solicitors in support of a request for a transfer to a hearing centre said to be more agreeable. The letter there says in terms that he complains of the appellant:

"... suffering the after-effects of his torture. Indeed he presents with the following visible symptoms: anxiety, low mood, flashbacks/nightmares related to his past experiences and abuse in detention and general reluctance to talk about and narrate his past experiences in Sri Lanka etc."
9. It is absolutely clear that the suggestion that mental health impacted on his ability to give an account of himself was never abandoned. This possibility should have been in the Judge's mind and the point was not dealt with by the First-tier Tribunal Judge.
10. There are other reasons for disbelieving the appellant and they themselves have been challenged. We note Miss Laughton's submissions that points

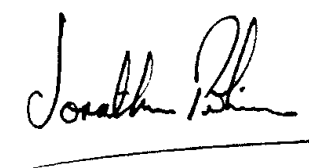
were taken that ought not to have been about plausibility. We have read the relevant paragraphs of the determination. We make no comment or finding on that particular ground. The case has got to go back to the First-tier Tribunal. No findings will be preserved and the First-tier Tribunal will be, we are sure, careful to make sure it makes findings that are properly supported by the evidence or if it makes findings on inference the inference is properly justified.

11. We considered Miss Fijiwala's submissions before making our decision. It is undoubtedly the case that the judge has referred to the medical evidence and claims to have considered all the papers. We find that this is not good enough when, as is the case here, it is possible that the mental health of the appellant goes to the very core of his ability to conduct himself. It might go to the very core of the adverse credibility findings. This is not a case that is saved by the generic albeit no doubt perfectly truthful reference to having considered the papers. This is a point of such importance that we are satisfied it required specific clear direct consideration.
12. We have asked ourselves if the point is material. We remind ourselves that the situation in Sri Lanka certainly is better than it once was but it is this appellant's case that after the conflict has ceased he has been tortured by the authorities and that they continue to be interested in him and show it by contacting his mother.
13. We make no findings on these claims but if they are credible they might lead to the appellant being found to need protection.
14. It follows therefore that the core finding about credibility is not satisfactory because it does not show proper regard for all of the evidence.
15. We also note that the First-tier Tribunal Judge did not refer directly to the appellant's witness statement, which is in the form of a rebuttal of various points taken in the refusal letter. He may have considered it but it would have been much better if it had been considered specifically so it was apparent to everyone not merely that it was read but that its contents were understood and noted. This has not been done.
16. There errors in this case cannot be repaired without a further hearing.
17. We allow the appellant's appeal. We set aside the decision of the First-tier Tribunal. We rule that the case must be decided again in the First-tier.
18. We make no directions on this point but we understand that the Appellant's solicitors have order a further report which is likely to be ready by the end of August. It seems undesirable to list the appeal before then but that is a matter for the First-tier Tribunal.

**Notice of Decision**

The appeal is allowed. The case will be decided again in the First-tier Tribunal.

Signed



Jonathan Perkins  
Judge of the Upper Tribunal

Dated 19 June 2015