



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

Appeal Number: AA/06904/2014

THE IMMIGRATION ACTS

Heard at Field House

**Determination
Promulgated**

On 16th January 2015

On 19th January 2015

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MRS RENUKA PARAMANATHAN

Respondents

Representation:

For the Appellant: Ms A Everett (Senior Home Office Presenting Officer)

For the Respondents: Ms E Harris (instructed by Nag Law Solicitors)

DETERMINATION AND REASONS

1. This is an appeal to the Upper Tribunal, with permission, by the Secretary of State with regard to a determination of the First-tier Tribunal (Judge McWilliam) dated 10th November 2014 by which she allowed the Respondent's appeal against the Secretary of State's decision to refuse her asylum and to return her to Sri Lanka.
2. The Secretary of State sought permission to appeal which was granted by a First-tier Tribunal Judge on 5th December 2014. She thought it arguable that the Judge had erred because she failed to restrict herself to the risk categories contained in the Country Guidance case of GJ and others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC).

3. I agree that the Judge made material errors of law for the following reasons.
4. The Judge at paragraph 27 appears to have misunderstood what the Court of Appeal said in MP (Sri Lanka) [2014] EWCA Civ 829 and proceeded on the basis that she could consider the UNHCR risk categories and allow the appeal on the basis that the Appellant came within one of those. The Appellant in this case, on the basis of the Judge's findings did not come within any of the GJ risk categories.
5. Additionally I note the Robinson obvious error of law at paragraph 32 of the determination where the Judge notes that the Appellant's husband claimed asylum but was refused and lost his appeal against that refusal. The Judge said that that decision was not before her and so she could not say whether or not he had been found credible or incredible. She then found him credible. Such a matter is crucial. Devaseelan [2003] Imm AR 1 clearly applied and the Judge could and should have taken steps to obtain that determination. She proceeded on the basis that he was credible whereas there may have been previous strong findings to the contrary.
6. As a result of the error of law none of the Judge's findings can stand and I set aside the determination in its entirety and remit the appeal to the First-tier Tribunal for a full rehearing, before which the earlier determination in relation to the Appellant's husband should be available.
7. The appeal by the Secretary of State to the Upper Tribunal is allowed.

Signed

Date 16th January 2015

Upper Tribunal Judge Martin