



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

Appeal Number AA/11130/2013

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 15th July 2015

On 10th August 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

V A
(ANONYMITY DIRECTION MADE)

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

Representation:

For the Appellant: Miss S Pinder (Counsel, instructed by A&P Solicitors)

For the Respondent: Mr E Tufan (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant, a national of Sri Lanka, arrived in the UK in May 2011 and claimed asylum. The application was refused for the reasons given in the Refusal Letter of the 3rd of December 2013. The Appellant's appeal was previously the subject of a First-tier Tribunal hearing following which the Upper Tribunal remitted the case to the First-tier Tribunal for re-hearing. The appeal was then heard by First-tier Tribunal Judge O'Garro at Hatton Cross on the 12th of January 2015 and dismissed in a decision of the 4th of February 2015.

2. The case proceeded on the basis of agreed facts which were summarised in paragraph 38: the Appellant is a Sri Lankan Tamil; he worked for the LTTE; he was arrested by the army in February 2009, detained and tortured and he escaped on the 23rd of May 2009. Other parts of the Appellant's claim were in dispute as set out in the Refusal Letter essentially turning on whether the authorities had a continuing interest in the Appellant such that he would be at risk on return to Sri Lanka.
3. The Judge found that the Appellant was not of interest to the authorities in Sri Lanka for the reasons given in paragraphs 43 to 56 of the decision. In paragraphs 44 and 45 the Judge considered the circumstances of the Appellant's escape and the lack of interest shown in the Appellant's family including his brother, also an LTTE member.
4. The Appellant sought permission to appeal to the Upper Tribunal on the basis that the Judge erred in a number of respects. It was submitted that as the Appellant had escaped the objective evidence relating to those who had been released was not relevant to his circumstances and that other aspects of objective evidence had not been considered such as the harassment of some who had been released. It was submitted that the Judge had sought to go behind the agreed facts of the case, the only issue in dispute being whether his home had been visited by the authorities after his escape.
5. Permission to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Andrew on the 26th of February 2015. She did so on the basis that it was arguable that the Judge had erred in placing weight on the letter from the British High Commission of the 1st of September 2010 given the preserved findings of fact that had been made. It was also arguable that paragraph 4.15 of the COIS had not been considered. The submissions of the Appellant's representative and the Home Office Presenting Officer are set out in the Record of Proceedings.
6. It is clear from the country guidance case of GJ and others (post civil-war: returnees) Sri Lanka [2013] UKUT 00319 (IAC) and MP (Sri Lanka) and NT (Sri Lanka) [2014] EWCA Civ 829 that the authorities in Sri Lanka operate a sophisticated intelligence system and are concerned with those perceived to be a threat to the future territorial integrity of the unitary state of Sri Lanka.
7. It is clear from paragraph 42 of the decision that the Judge focussed on the outstanding issue in dispute and the consequences which would follow from the findings made. The Judge had referred to the evidence of security forces visits to the homes of those who had escaped at paragraph 40/41 and so clearly had that in mind in the findings that followed. The reasons for the Judge rejecting the Appellant's account are summarised in paragraph 44 of the decision and reinforced by the reasons given in paragraph 45.

8. The decision has to be read as a whole and in doing so it is clear that the Judge did have regard to the contents of the COIS including paragraph 4.15 and in that context the letter from the British High Commission appeared. Aspects of paragraph 4.15 were supported by the British High Commission letter, such as the fact that some released did not received proper papers supporting a lack of planning.
9. The circumstances of the Appellant's family were clearly relevant, along with their own history, to the assessment of the situation the Appellant would face in Sri Lanka. The apparent lack of interest in the Appellant's family was considered but I do not see how it could be said that reliance could not be placed on their circumstances or that excessive regard was had to their situation and the apparent lack of interest in them.
10. Read overall I am satisfied that the decision shows that the Judge had regard to all the relevant evidence in assessing whether there was a real risk that the Appellant would be of interest to the authorities in Sri Lanka having regard to the Appellant's history and the country guidance case. The decision was open to the Judge and for the reasons given, the decision of First-tier Tribunal Judge O'Garro stands as the decision in this appeal.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Fee Award

In dismissing the appeal I make no fee award.

Signed:

Deputy Judge of the Upper Tribunal (IAC)
Dated: 4th August 2015