



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/06954/2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at City Centre Tower, Decision & Reasons
Birmingham Promulgated
On 10th March 2016 On 29th April 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**FATHIMA RINAZA NAZAVI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Martin, Counsel instructed by Biruntha Solicitors
For the Respondent: Mr D Mills, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of Sri Lanka born on 11th February 1989. The Appellant first arrived in the UK on 2nd September 2008 when she was granted leave to enter as a student until 31st October 2010. That leave was subsequently extended until 4th April 2014. However, that leave was curtailed so as to expire on 27th May 2012. On 8th February 2013 the Appellant made an unsuccessful application for leave to remain as a

dependent spouse, and on 17th January 2014 she applied for asylum. That application was refused for the reasons given in the Respondent's letter of 28th March 2015. The Appellant appealed, and her appeal was heard by Judge of the First-tier Tribunal James sitting at Birmingham on 3rd August 2015. He decided to dismiss the appeal on asylum, humanitarian protection, and human rights grounds for the reasons given in his Decision dated 20th August 2015. The Appellant sought leave to appeal that decision, and on 17th September 2015 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Judge found the Appellant to be credible. He found as a fact that prior to leaving Sri Lanka the Appellant had worked for a company called Hi Tech Group. As part of her work, she had assisted three Tamils to obtain visas, and she had also provided them with accommodation at her family home with the consent of her father whilst they waited for the visas to be issued. These Tamils had been arrested on their return to Sri Lanka in December 2013 perhaps on the suspicion of being LTTE members. As a consequence, the Appellant's father had been detained by the authorities and questioned about his daughter's involvement with the men. However, he had been released without persecution, although the authorities had continued to make enquiries concerning the Appellant. Nevertheless, no arrest warrant had been issued against the Appellant.
4. The Judge decided that on these facts the Appellant did not come within any of the risk categories identified in **GJ and Others (Post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC)**. In particular, the Appellant was not on a "stop list" and therefore did not come within category 7(d) listed at paragraph 356 of **GJ**.
5. At the hearing, Mr Martin argued that the Judge had erred in law in coming to that conclusion as he had not considered whether the Appellant's name appeared on a "watch list" of the sort mentioned at headnote (9) of **GJ**. This had been part of the Appellant's case argued at the hearing. Mr Martin accepted that if the Appellant's name was on such a list, she would not be arrested at the airport on return, but thereafter she would be monitored. Bearing in mind what had happened to the Appellant's father, such monitoring would lead to persecution. The Appellant had helped three Tamils leave the country. These Tamils had excited the interest of the Sri Lankan authorities. It was likely that the Appellant would be treated more severely than her father who had not been involved with these men to the same extent as the Appellant.
6. In response, Mr Mills referred to his Rule 24 response and submitted that there had been no such error of law. The headnote to **GJ** relied upon by the Appellant was not a risk category. The Judge had found none of the risk categories identified in **GJ** to apply. The background evidence was that people on the "watch list" were monitored for assessment. Whether

that would lead to persecution depended upon the facts. In that respect it was significant that the Appellant's father had not been ill-treated whilst in detention. He had been involved with the three Tamils to a similar extent as that of the Appellant. Any post-return monitoring of the Appellant would reveal that she was not a threat to the State.

7. I find no error of law in the decision of the Judge which therefore I do not set aside. It was part of the Appellant's case before the Judge that she was at risk as somebody on a "watch list". It was therefore an error of law for the Judge not to deal with this part of the Appellant's case. However, I am satisfied that such an error was not material as even to the lower standard, I find that even if the Appellant's name did appear on the "watch list" it would not lead to her persecution or any other form of ill-treatment and therefore that she is not at risk on return. Those whose names appear on the "watch list" are not automatically arrested at the airport on return. All it means is that their activities are monitored following return. The Appellant has never been involved with the LTTE or any other separatist movement and such monitoring will only reveal that she is not a threat to the Sri Lankan state in any way. I have therefore no reason to believe that on return the Appellant will be treated any worse than her father was, and it is not in dispute that he was not ill-treated.
8. My conclusion therefore is that if it is the case that the Appellant's name appears on the "watch list", she will not be at risk on return, and therefore any error of omission by the Judge is not material.

Notice of Decision

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.

The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity and I find no reason to do so.

Signed

Date

Deputy Upper Tribunal Judge Renton