



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

Appeal Number: AA/09008/2015

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
On 15 February 2016**

**Decision and  
Promulgated  
On 9 March 2016**

**Reasons**

**Before**

**UPPER TRIBUNAL JUDGE DEANS**

**Between**

**[S K]**

**and**

Appellant

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr E MacKay, McGlashan MacKay Solicitors  
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

**DECISION AND REASONS**

- 1) The appellant was born on [ - ] and is a national of Sri Lanka. He appeals against a decision by Judge of the First-tier Tribunal Wallace dismissing his appeal on asylum and human rights grounds.
- 2) The grounds of the application for permission to appeal were lengthy but were summarised by the judge who gave permission to appeal. It was contended that the Judge of the First-tier Tribunal failed to make findings of fact in respect of material elements of the appellant's claim and failed to give adequate and comprehensible reasons for her decision. It was further contended that the judge made findings that no reasonable decision maker could have made. The judge was said to have made an error of fact by

stating that there was no evidence on file to suggest the appellant was perceived by the Sri Lankan Government as having a relationship with post-conflict Tamil separatism but in fact there was a significant amount of such evidence. It was argued that the judge further erred by finding that past persecution might be relevant but in itself was not an indicator of future persecution. Permission to appeal was granted on the basis that all these grounds were arguable. In particular, it was arguable that past persecution was a *prima facie* indication that the appellant would be at risk of similar persecution in future. The judge's statement to the contrary was an arguable error of law.

- 3) Following the granting of permission to appeal the respondent submitted a rule 24 notice dated 8 December 2015 stating that the application was not opposed.
- 4) At the hearing before me the parties were agreed that the appeal should be remitted to the First-tier Tribunal for a hearing before a different judge at which the decision would be remade.

### **Conclusions**

- 5) The making of the decision of the First-tier Tribunal did involve the making of an error or errors on points of law.
- 6) I set aside the decision.
- 7) The appeal is remitted to the First-tier Tribunal to be remade at a hearing before a judge other than Judge Wallace.

### **Anonymity**

- 8) The First-tier Tribunal did not make an order for anonymity. Taking into account that proceedings are continuing based on the appellant's claim to have a fear of persecution by the authorities in Sri Lanka, I consider that an anonymity order should be made, at least for the duration of the proceedings before the First-tier Tribunal.
- 9) Accordingly pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order in the following terms. Unless the Upper Tribunal of the court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This order applies to, amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.

Signed

Date

Upper Tribunal Judge Deans