



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

Appeal Number: PA/04380/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 15<sup>th</sup> January 2018**

**Decision & Reasons  
Promulgated  
On 06<sup>th</sup> February 2018**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**M T**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

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

For the Respondent: Mr N Paramjorthy (instructed by S Satha & Co Solicitors)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Secretary of State in relation to a Decision and Reasons promulgated on 20<sup>th</sup> June 2017 by Judge Coutts after a hearing at Hatton Cross on 6<sup>th</sup> June 2017. The case involved a protection claim by a Sri Lankan national born in March 1996. He claimed that he was at risk of persecution in Sri Lanka because of family links to the LTTE and matters that had taken place whilst in Sri Lanka. The Secretary of State did not accept the Appellant's involvement with the LTTE as credible and therefore did not accept that he had been arrested on three occasions as he claimed.

2. The Decision and Reasons is by any standards extremely brief and the reasoning similarly so. The Judge found the Appellant's claim to be credible on the lower standard and found it reasonably likely that he would be at risk on return.
3. The grounds, which are indeed very lengthy, start with an assertion that the Judge had failed to take into account the contents of a June 2017 report which was not in front of the Judge. The Judge cannot be guilty of an error of law in failing to take into account a document which the Secretary of State failed to put before him.
4. However, the challenges to the credibility findings I find do have merit. There were considerable credibility challenges to the Appellant's account set out at paragraph 3 of the grounds which I find have considerable force and are just simply not dealt with by the Judge. The Judge does not deal with any of the Secretary of State's credibility challenges and simply finds that he would be at risk and that his claim was credible.
5. Paragraph 3.1 talks about the Judge failing to make any findings as to why the Appellant, as a 10 year old boy, would be involved in the LTTE or why he would be involved when his father had left the LTTE in 1987, nine years before the Appellant was born.
6. Similarly, with regard to the way that the Judge has dealt with the medical report, I find considerable force in the point made by the Secretary of State that the Appellant gave comprehensive evidence at his asylum interview only two months prior to the hearing and also for the purposes of a psychiatric report and yet was apparently unfit to give evidence at the hearing. That should have been explored. I will not go into each and every item listed in the grounds, which as I say are extremely long, but the fact that the Judge has made positive credibility findings without engaging with any of the challenges by the Secretary of State I find is a material error of law which means that I must set the decision aside. As I am setting it aside in its entirety it is appropriate to remit it to the First-tier Tribunal for a full rehearing

### **Notice of Decision**

7. The Secretary of State's appeal to the Upper Tribunal is allowed to the extent that the decision is set aside for inadequacy of reasoning and the matter is remitted to the First-tier Tribunal for a full rehearing on all matters.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 2<sup>nd</sup> February 2018

Upper Tribunal Judge Martin