



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

Appeal Number: PA/10484/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 8 January 2019**

**Decision & Reasons Promulgated
On 31 January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

**RSA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. H. Kannangara, Counsel

For the Respondent: Mr. C. Avery, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against a decision of First-tier Tribunal Judge Paul, promulgated on 11 October 2018, in which he dismissed the Appellant's appeal against the Respondent's decision to refuse a grant of asylum.
2. As this is an asylum appeal, I make an anonymity direction.
3. Permission to appeal was granted as follows:
"The grounds essentially argue lack of adequate evidence based reasons for concluding that the Appellant's evidence was not credible and that he would not be at risk on return to Sri Lanka. The judge's

conclusions are extremely brief and at paragraphs 30 to 32 they support the grounds. Those paragraphs are arguably difficult to understand and lacking in reasoning; they contain no analysis of either the Appellant's evidence or argument on the points in question, or consistency with relevant background material."

4. At the hearing, following an acceptance by Mr. Avery on behalf of the Respondent that the decision involved the making of a material error of law, I set the decision aside and remitted the appeal to the First-tier Tribunal to be remade.

Error of Law

5. Given that Mr. Avery conceded at the hearing that the decision involved the making of a material error of law, as I indicated at the hearing, the reasons for my decision will be brief.
6. The Judge's findings are set out from paragraphs [28] to [34] and are only one page in length. Given that this is an asylum appeal, I find that this in and of itself indicates that insufficient consideration has been given to the Appellant's case. As set out in the grant, it is not entirely clear at [30] to [32] what the Judge's objections were to the Appellant's account. There is no proper consideration of the evidence before him. For example, at [32] he states that he does not accept that the report is a genuine document, but no reasons are given for this finding. He then states that, "even if it is", he does not accept that it was "generated in relation to any specific incident". No explanation is given as to what this means. The Judge finds at [34] that the account is lacking in substance "for all these reasons", but I find that inadequate reasons have been given in the preceding paragraphs.
7. Further, there is no consideration of the background evidence at all, either with reference to the Appellant's account, or with reference to his risk on return.
8. I find that the Judge has failed to give due consideration to the Appellant's account, and has failed to give adequate reasons for rejecting it. He has further failed to give adequate reasons for why the Appellant would not be at risk on return to Sri Lanka.
9. I find that the decision involves the making of a material error of law. I have taken account of the Practice Statement dated 10 February 2010, paragraph 7.2. This contemplates that an appeal may be remitted to the First-tier Tribunal where the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for the party's case to be put to and considered by the First-tier Tribunal. Given the nature and extent of the fact-finding necessary to enable this appeal to be remade, having regard to the overriding objective, I find that it is appropriate to remit this case to the First-tier Tribunal.

Notice of Decision

10. The decision of the First-tier Tribunal involves the making of a material error of law and I set the decision aside.

11. The appeal is remitted to the First-tier Tribunal to be remade.
12. The appeal is not to be listed before Judge Paul.

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 his 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 21 January 2019

Deputy Upper Tribunal Judge Chamberlain