



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/08652/2019

THE IMMIGRATION ACTS

**Heard at Field House by Skype for Decision & Reasons
Business Promulgated**

On the 15 December 2021

On the 22 December 2021

Before

**UPPER TRIBUNAL JUDGE GLEESON
And
DEPUTY UPPER TRIBUNAL JUDGE JOLLIFFE**

Between

TS (SRI LANKA)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellant appeals against the decision of the First-tier Tribunal on 29 August 2019 dismissing his appeal against the respondent's decision to refuse him refugee recognition, humanitarian protection or leave to remain on human rights grounds. The appellant is a citizen of Sri Lanka and is of Tamil ethnicity.
2. By a decision on 6 July 2020, the Upper Tribunal set aside the decision of the First-tier Tribunal and gave directions. The background to that decision does not need to be repeated here at length. In summary, the issue was that the appellant had been involved with the LTTE from 2006 until 2009, and had scarring from a gunshot wound. He had been detained from 2009 until 2012, and claimed to have been tortured during his detention. The appeal was to be determined after the Upper Tribunal had promulgated its judgment in the Sri Lanka Country Guidance case of KK and RS (*Sur place* activities: risk) Sri Lanka CG [2021] UKUT 130 (IAC). The appeal in the appellant's case was listed for remaking on 15 December 2021.

3. However, on 14 December 2021 the Upper Tribunal received a Position Statement from Mr Stephen Kotas for the respondent, who has reviewed the evidence for the Secretary of State.
4. The Secretary of State no longer opposes the appeal being allowed. Mr Kotas' Position Statement states as follows:

“2. The preserved findings of fact include inter alia: (i) That the appellant was previously detained by the Sri Lankan authorities at the end of the conflict in 2012 because he was an LTTE supporter (Determination of IJ Hands @53); (ii) That the appellant has been participating in sur place activities in the UK since 2017 on behalf of the TGTE (a proscribed organisation); (iii) That the appellant has provided written evidence to the ICPPG on 05 July 2018.

3. In view of the aforementioned, and having also reviewed the subjective evidence submitted on behalf of the appellant, that in light of the guidance handed down in KK and RS (Sur place activities, risk) Sri Lanka (CG) [2021] UKUT 130 (IAC), with particular reference to paragraphs 5, 6, 8, 10, 13, 21(i), 21(v) of the headnote, the respondent does not oppose the appellant's appeal being allowed on protection grounds given the requisite standard of proof.

4. In accordance with the overriding objective and in order to save time and costs for all parties, the Upper Tribunal is therefore respectfully invited to determine this appeal without a hearing pursuant to Rule 34(1) The Tribunal Procedure (Upper Tribunal) Rules 2008, where a written decision can be issued allowing the appeal which reflects the respondent's concession.”

5. The Upper Tribunal considers that this was an appropriate concession to have made.

Conclusion

6. The Secretary of State has withdrawn her opposition to the appeal. Rule 34(1) of the Rules provides that the Upper Tribunal may make any decision without a hearing. It is appropriate in these circumstances to allow the appellant's appeal without holding an oral hearing.

DECISION

7. For the foregoing reasons, the Upper Tribunal's decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

The previous decision is set aside.

The decision in this appeal is remade by allowing the appellant's appeal.

Signed [John Jolliffe](#)
2021

Date: 15 December

Deputy Upper Tribunal Judge Jolliffe