



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

Appeal Number: PA/02988/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 23<sup>rd</sup> May 2022**

**Decision & Reasons Promulgated  
On 18<sup>th</sup> July 2022**

**Before**

**UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**A P A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Paramjorthy, instructed by S Satha & Co

For the Respondent: Ms Ahmed, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Sri Lanka born in 1985. He appeals against the decision of First-tier Tribunal Judge Athwal, promulgated on 19 May 2021, dismissing his appeal against the refusal of his protection claim on asylum, humanitarian protection and human rights grounds.
2. Permission to appeal was granted by Upper Tribunal Judge Allen on 16 September 2021 on the grounds it was arguable the judge did not properly consider and take into account medical evidence, in particular that of Dr Dhumad, when assessing credibility.

**Submissions**

3. Mr Paramjorthy relied on his grounds to the Upper Tribunal dated 13 July 2021 and referred me to [35 (vi)] of the decision. It was accepted the reference to Dr Singh was a typographical error. The two reports before the judge were Dr Martin's report on scarring and the psychiatric report of Dr Dhumad.
4. Mr Paramjorthy submitted the inconsistency referred to in [35(vi)] was a result of the appellant's mental health condition. Therefore, the judge was wrong to conclude that the report of Dr Dhumad was 'not of assistance when considering the appellant's credibility.' The report of Dr Dhumad did assist in relation to credibility because there was a potential explanation for the inconsistency.
5. I asked if the judge's findings at [36] were sufficient to address this issue. Mr Paramjorthy submitted they were not because the judge jumped to conclusions. The judge stated there was no evidence of thought disorder and the appellant spoke fluently when giving evidence, and then she found the appellant had not told the truth about his arrest and detention.
6. Ms Ahmed relied on the rule 24 response and submitted there was no error of law following Mibanga v SSHD [2005] EWCA Civ 367 and QC (verification of documents; Mibanga duty) China [2021] UKUT 000333 (IAC), notwithstanding the judge used dangerous language in stating the medical evidence did not assist the appellant. She submitted the judge treated the appellant as a vulnerable witness and properly directed herself at [34]. The judge gave seven reasons at [35] for why the appellant was not a credible witness. At [35(i)] the judge noted what the appellant said to Dr Dhumad and his report was taken into account throughout the credibility assessment.
7. The judge gave reasons at [35 (v) and (vi)] for the weight she attached to the medical reports, which also featured in her earlier findings. The medical reports were clearly taken into account in the overall assessment. The judge had to start somewhere and she had not already formed an adverse view before considering whether that view could be affected by the expert evidence. The judge did not artificially separate the medical evidence as in [24] of Mibanga.
8. Ms Ahmed submitted the judge (at [35]) listed, in no particular order, the reasons which formed part of her holistic assessment. At [36], the judge plainly considered the psychiatric report as part of her overall findings. The judge's approach was consistent with QC China and the authorities referred to therein. There was no 'Mibanga error'. The judge did not discount the report of Dr Dhumad without proper consideration as submitted by the appellant. The judge's approach was appropriate for assessing credibility given the appellant was not relying on Article 3. The judge made clear findings after a holistic assessment had taken place. There was no misdirection in law. Mr Paramjorthy had nothing to add to his earlier submissions.

### **Conclusions and reasons**

9. The judge's use of language in the first sentence of [35 (vi)] was unfortunate and was not an accurate reflection of her approach to the medical evidence. At [35], the judge gave seven reasons for finding the appellant was not a credible witness. She referred to the medical evidence throughout this paragraph and gave specific reasons at (v) and (vi) for the weight she attached to the medical reports.
10. In addition, at [36], the judge considered the clinical conclusions in the psychiatric report of Dr Dhumad and whether they were of assistance in explaining the inconsistencies in the appellant's account. When the decision is read as a whole, it cannot be said the judge artificially separated the medical evidence from the rest of the evidence. It is apparent from [35] and [36] that the medical evidence was an integral part of the credibility assessment.
11. I am satisfied the judge made a holistic assessment of credibility and she considered all relevant matters. The judge properly directed herself in law and made findings which were open to her on the evidence before her.
12. Accordingly, I find there was no material error of law in the judge's decision promulgated on 19 May 2021. I dismiss the appellant's appeal.

### **Notice of Decision**

#### **Appeal dismissed**

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

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**J Frances**

Signed

Date: 26 May 2022

Upper Tribunal Judge Frances

**TO THE RESPONDENT**  
**FEE AWARD**

As I have dismissed the appeal, I make no fee award.

**J Frances**

Signed  
Upper Tribunal Judge Frances

Date: 26 May 2022

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**NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.