



IAC-AH-CO-V1

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

Appeal Number: AA/03223/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 4 January 2016**

**Decision & Reasons Promulgated
On 13 January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE J M LEWIS

Between

**MR LOGARAJ ARULANANTHAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Paramjorthy, Counsel instructed by Vasuki Solicitors
For the Respondent: Mr K Norton, Home Office Presenting Officer

DECISION AND REASONS

The History of the Appeal

1. The Appellant, Mr Logaraj Arulanantham, a citizen of Sri Lanka, appealed against a decision of the Respondent to refuse his claim for international protection. His ensuing appeal was heard on 6 July 2015 at Hatton Cross by Judge Plumptre. Both parties were represented, the Appellant by Mr Paramjorthy. In a decision of 16, promulgated on 24, July 2015 the appeal was dismissed on political, asylum, humanitarian protection and human rights grounds.

2. Permission to appeal was refused to the Appellant on 28 August by Judge Garratt, essentially on the basis that it represented only a disagreement with the judicial findings, but granted on second application on 10 October 2015 by Judge Taylor, who wrote that the grounds may on closer examination amount to a disagreement with the decision but the judge's reasoning was at times difficult to follow particularly with respect to the medical evidence. The Respondent submitted a Rule 24 response essentially arguing that the judge had made clear and well reasoned findings with which the grounds of application represented disagreement.
3. The Appellant attended the error of law hearing, which took the form of submissions, expanding in the case of the Appellant upon the very full grounds of application. I reserved my decision.

Decision

4. The application occupies that difficult intermediate ground between disagreement with the judicial findings and findings which are legally erroneous.
5. The Appellant submits that the judge did not explain why she had not accepted the Appellant's evidence. Nor did she address the Appellant's evidence about various matters which are addressed in his statement, including why he did not join the LTTE at the age of 10, why he was selected for LTTE training, his relationship with his uncle, his inability to explain why his father had been arrested and why he had been allowed to contact his mother. Insufficient reasoning had been given for rejecting the medical evidence, in the light of **KV (scarring - medical evidence) Sri Lanka** [2014] UKUT 00230 (IAC). His claim of sur place political activities in the UK was rejected as having been "cynically undertaken to bolster a false asylum claim" (paragraph 77). This was to ignore **Danian** [2000] IAR 96, which permits sur place political activities to be undertaken in less than good faith. This in turn contributed to the assessment of risk under the criteria of **GJ and Others (post-civil war: returnees) Sri Lanka CG** [2013] UKUT 319 (IAC) (paragraph 81). These conclusions are summarised at paragraphs 38 and 80; neither was meaningfully checked, as paragraph 38 is unintelligible and paragraph 80 intelligible only by the insertion of the word "reject" in the fourth line.
6. Individually the challenges to the Appellant's evidence, including of his sur place activities, may be, as they were, argued to represent disagreement with the judicial findings. Cumulatively, they are sufficiently arguable that, taken together with the rejection of the medical evidence and the legally erroneous understanding of sur place activities, they render the decision unreliable on these grounds, which include insufficient engagement with the Appellant's evidence and insufficient reasoning for its rejection.
7. The decision is accordingly set aside. Both parties agreed that in this event the appeal needs to be reheard in its entirety in the First-tier Tribunal.

Decision

8. The original decision contained an error of law, and is set aside.
9. The appeal is to be reheard on all issues in the First-tier Tribunal at Hatton Cross by any judge other than Judge Plumptre.
10. No anonymity direction is made.

Signed

Dated: 11 January 2016

Deputy Upper Tribunal Judge J M Lewis