



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/11867/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 16 June 2017**

**Decision Promulgated
On 19 June 2017**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**CA
(ANONYMITY DIRECTION MADE)**

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Khan, instructed by Abbey Law Solicitors
For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Sri Lanka born on 10 June 1977. He arrived in the United Kingdom on 31 March 2011 with a Tier 4 (General) Dependant Partner visa valid until 13 April 2012 which was subsequently extended to 3 August 2015. He returned to Sri Lanka on 10 August 2014 and came back to the UK on 8 September 2014. His wife made an application for leave to remain on private and family life grounds, with the appellant as a dependant, on 29 July 2015, but that application was refused and certified as clearly unfounded on 28 January 2016. On 6 April 2016 the appellant claimed asylum. His claim was refused on 4 October 2016. He appealed against that decision and his appeal was heard before the First-tier Tribunal and was dismissed in a

determination promulgated on 12 December 2016. Permission to appeal to the Upper Tribunal was granted on 9 May 2017.

2. The appellant claims to have worked for an organisation called Centre for Policy Alternatives (CPA) in its media unit, taking pictures, producing leaflets and magazines and leading picket lines as well as reporting about the Sri Lankan army. As a result of his work he claims to have been attacked by the Sinhalese group "Bodu Bala Sena" on 20 May 2008 during a peaceful rally in Colombo. He also received threatening telephone calls from the group. On 2 June 2008 members of the Bodu Bala Sena came to his house looking for him and threatened his parents and looked for his cameras. He continued to work for CPA until March 2011, when he left Sri Lanka and came to the UK. In February 2012 members of the Bodu Bala Sena visited his house and threatened his brother in regard to his whereabouts. On 1 September 2014, after he had returned to Sri Lanka, four men attempted to kidnap him but he managed to escape. He then returned to the UK a week later. He feared being killed by Bodu Bala Sena or Sinhealay, another Sinhalese organisation, if he returned to Sri Lanka. In support of his asylum claim the appellant submitted a supporting letter from CPA, two magazines as proof of his photography work, evidence of a poster that he had designed and an article he had written for a newspaper.

3. The respondent, in refusing the appellant's claim, considered his account of his work for CPA and the problems that he claimed to have experienced as a result to be inconsistent and incoherent and rejected it. The respondent considered that the appellant's delay in claiming asylum undermined his credibility and concluded that he would not be at risk on return.

4. The appellant appealed against that decision and his appeal was heard by First-tier Tribunal Judge Sweet on 30 November 2016. Judge Sweet heard evidence from the appellant about his work for the CPA and as a reporter and journalist. He said that he found the appellant's account to be entirely lacking in credibility. He did not accept that he would be at risk on return because he was able to leave Sri Lanka without any difficulties in 2011 and was able to return to Sri Lanka in 2014 and leave for the UK without any difficulties and there was no evidence of any attempted kidnapping. He found that the appellant did not fall into any of the risk categories in GJ (post-civil war: returnees) Sri Lanka CG (Rev 1) [2013] UKUT 319 and dismissed the appeal on asylum, humanitarian protection and human rights grounds.

5. Permission to appeal was sought by the appellant and granted by myself on 9 May 2017, on the grounds that the judge's credibility findings were arguably unclear.

6. The matter then came before me on 16 June 2017. Having heard submissions from both parties I advised the parties that I was setting aside Judge Sweet's decision.

7. As Mr Khan submitted, it is not at all clear from the judge's decision whether or not he accepted the appellant's claim to have worked as a journalist in Sri Lanka. The judge's general finding at [28], that he found the appellant's

account to be entirely lacking in credibility, appears to suggest that he did not accept any part of his claim including his claim to be a journalist, yet his observations at [29] possibly suggest otherwise. If it is the case that he did not accept that claim, there is an absence of full and proper reasoning by the judge. Although the judge was entitled to place some weight on the factors set out at [28], he failed to explain why he did not accept any of the supporting evidence referred to at [29]. If, on the other hand, he accepted the appellant's claim to be a journalist, the judge failed to give any reasons for concluding that he did not fall within the risk factors in G, in particular the category at [7(b)] of the head-note.

8. For all of these reasons, given the lack of clarity in the judge's findings on the core issue in the appellant's case, it seems to me that the decision cannot stand and has to be re-made in its entirety, with no findings preserved.

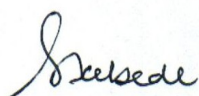
DECISION

9. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal, to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Sweet.

Anonymity

The First-tier Tribunal made an anonymity order. I uphold that order, pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269).

Signed



Upper Tribunal Judge Kebede
2017

Dated: 16 June