



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/13223/2017

THE IMMIGRATION ACTS

Heard at Field House
On 3 May 2018

Decision & Reasons Promulgated
On 30 May 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

MR PM
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Paramjorthy instructed by A & P Solicitors
For the Respondent: Mr P Nath, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Sri Lanka, appealed to the First-tier Tribunal against a decision by the Secretary of State of 28th November 2017 to refuse his claim for asylum. First-tier Tribunal Judge Isaacs dismissed the appeal in a decision dated 31 January 2018. The Appellant now appeals to this Tribunal with permission granted by First-tier Tribunal Judge McGinty on 5th March 2018.
2. The background to this appeal is the Appellant claims that he fears persecution in Sri Lanka on account of his political opinion. He claims that during 2005 and 2006 when he was around 12 or 13 years old he transported weapons and meals for the LTTE and that he persuaded his parents to give accommodation for a few days to a boy called V who was ill at that time. He claims that as a result of these activities the Sri Lankan

authorities arrested and detained him in April 2017 and that he was beaten and burnt with cigarettes. He left Sri Lanka on 13th May 2017 travelling on a fake Indian passport. He stayed in India for three days and then travelled to France before arriving in the UK clandestinely on 18th May 2017. He claimed asylum on 2nd June 2017. At the hearing he claimed that he has been involved with sur place activities through his involvement with the Transnational Government of Tamil Eelam (TGTE) in the UK.

3. At the hearing before me Mr Paramjorthy accepted that the grounds are largely a disagreement with the judge's findings. However, he submitted that they could essentially be distilled into three main points.
4. The first ground pursued by Mr Paramjorthy is that the judge erred in that there was confusion in relation to her findings. He submitted that from paragraphs 57 to 61 the judge gave reasons why she did not believe the Appellant's evidence largely in relation to events in 2005 and 2006 but that her conclusions at paragraph 63 are confusing. He submitted that the judge has to get her findings right and make clear what her findings are in relation to the Appellant's claimed involvement with the LTTE.
5. In my view, although at paragraphs 57 to 61 the judge expresses doubt in relation to the Appellant's credibility as regards various matters, at paragraph 63 the judge said that the Appellant may have provided brief help to the LTTE as described. In my view it is clear when reading paragraphs 57 to 63 as a whole that the judge followed a clear path to the conclusions at paragraph 63. At paragraph 56 the judge said that the Appellant had not been consistent in the details of his account of his own commitment to and involvement with the LTTE and sets out a number of points. The judge pointed out two matters in the Appellant's screening interview at paragraph 57, in his asylum interview and in relation to his uncle's evidence before concluding at paragraph 60 that "across his evidence the Appellant has gradually increased his assertions of a lifelong commitment to the LTTE cause". The judge raised credibility issues at paragraph 61 in relation to the Appellant's account of his cousin's history and raised issues about the fact that on the Appellant's account the authorities had shown no interest in his father who was 35 years old at the time they gave shelter to V. The judge concluded:

"All in all, I do not find it plausible, as the Appellant has consistently asserted, that he has been held to account for some minor activities in 2005 and 2006 while he was 12 or 13 years old, and yet his adult father has been allowed to remain in Sri Lanka problem-free".

The judge went on to consider the medical evidence before concluding at paragraph 63:

"The Appellant may have provided the brief help to the LTTE he has described - carrying weapons on three occasions, carrying some meals on memorial days and bringing another boy, V, home when he was ill and persuading his parents to let him stay for four days. Even if this were true, I do not believe the Appellant's allegation that this has caused the authorities to be interested in him in April 2017".

6. The judge went on to give reasons for this conclusion including the fact that the Appellant's activities were minor and over a brief period, he was a child when he undertook those activities, there was no warrant for his arrest despite his claim to have escaped from custody and because the Appellant's father also accommodated V and is a closer relation to the Appellant's cousin and yet has suffered no consequence at all. In my view it is clear from reading these paragraphs that the judge has expressed considerable doubt about the Appellant's claim in relation to his activities in 2005 and 2006 and does not accept that the Appellant undertook those activities as claimed. It is clear to me that paragraph 63 is in fact a finding by the judge that, taking the Appellant's claim at its highest in relation to his claimed activities in 2005 and 2006, it was not accepted that the authorities would have been interested in him in April 2017 as claimed. In my view these findings are clear and were open to the judge on the basis of the evidence before her. This ground has not been made out.
7. The second ground pursued by Mr Paramjorthy at the hearing is that the judge erred in considering the medical evidence after apparently reaching conclusions as to the Appellant's credibility. He referred to the case of **Mibanga [2005] EWCA Civ 367**. However, he accepted when I put it to him, that the judge's findings were preceded by paragraph 55 where the judge said "I did not find the Appellant was a credible witness for the following reasons". The judge then set out at paragraphs 56 to 63 the reasons why she did not find the Appellant credible and considered the medical report at 62. I do not accept that the judge reached conclusions on credibility before considering the medical report. Mr Paramjorthy accepted that this ground had not been made out.
8. The third ground pursued by Mr Paramjorthy at the hearing was in relation to the Appellant's *sur place* activity. In my view the judge made a key finding at paragraph 64 where she said "I believe the Appellant has taken place in some *sur place* activities purely to continue this narrative of a strong and long-held commitment to the LTTE cause for the following reasons". The judge then set out reasons why she believed that she doubted the Appellant's motives for his *sur place* activities. At paragraph 66 the judge went on to say that, even allowing for a cynical motivation for his *sur place* activities, she had considered whether they would nonetheless place him at risk were he to return to Sri Lanka.
9. Mr Paramjorthy submitted that the judge inadequately engaged with the evidence put forward by the Appellant as to his activities. The judge said at paragraph 44 that his activities amount to the attendance by the Appellant at four public events. He provided photographs of his attendance at a demonstration and he says that he attends meetings of the TGTE.
10. The judge considered the letter submitted by the Appellant from the TGTE at paragraph 71 where she said that this letter was identical in its wording to letters which are produced by this organisation for individuals claiming to be working with the TGTE. I accept Mr Paramjorthy's submission that this appears to have been based on the submission made by the Presenting Officer that the letter is a generic letter. However, when looking at the letter it is apparent that, whilst the letter names the Appellant and gives his address, it does not specify any detail about the Appellant's

involvement with the organisation or any specific activities he has engaged in. Therefore, in my view it was open to the judge to reach the conclusion she did at paragraph 71 in relation to the letter.

11. The judge considered a number of photographs submitted by the Appellant. Mr Paramjorthy contended that the judge failed to properly engage with this evidence and referred to paragraph 20 of the Appellant's witness statement where he talked about attending a Black July procession in Westminster. However, the judge did acknowledge that the Appellant had attended a demonstration and four public events. The judge did acknowledge the photographs. The Appellant's own witness statement shows that he attended a Black July procession in July 2017, a TGTE National Sports Meet in July 2017, a protest in front of 10 Downing Street in October 2017. The photographs in the bundle are of these events. There are also photographs of his attendance at a Heroes Day event on 27th November 2017. This was acknowledged by the judge in the decision.
12. Mr Paramjorthy suggests that the judge has failed to understand the extent of the evidence because she said at paragraph 70 that the photographs in which the Appellant was pictured "were essentially demonstrations calling for justice for imprisoned Tamils" whereas in Mr Paramjorthy's submission the photographs show more than that. However, whilst the Appellant is pictured holding an LTTE flag at page 34 it is clear that he is behind a poster in relation to imprisoned Tamils as he is on page 35. Therefore, the judge made no error in consideration of this evidence.
13. In conclusion I find that the First-tier Tribunal Judge considered all of the evidence and reached conclusions open to her upon the evidence before her.

Notice of Decision

The First-tier Tribunal Judge's decision does not contain a material error of law.

The decision of the First-tier Tribunal shall stand.

An anonymity direction is made.

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: 25th May 2018

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT
FEE AWARD

No fee is payable, therefore there is no fee award.

Signed

Date: 25th May 2018

Deputy Upper Tribunal Judge Grimes