



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

Appeal Number: PA/02829/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 4 February 2019**

**Decision & Reasons  
Promulgated  
On 04 March 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**S S  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms A Walker, Counsel

For the Respondent: Mr N Bramble, HOPO

**DECISION ON ERROR OF LAW**

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Goodman dismissing his appeal against the respondent's decision dated 1 February 2018 to refuse his application for asylum and leave to remain on human rights grounds.
2. The appellant entered the UK on 12 November 2009 and claimed asylum, but was refused on 4 December 2009. He appealed to the First-tier Tribunal. His appeal was dismissed by First-tier Tribunal Judge Devittie in a decision promulgated on 24 February 2010. The Upper Tribunal refused

permission to appeal on 16 March 2010. The appellant then made a further submission, which was found by the Home Office not to constitute a fresh claim and rejected on 18 May 2010.

3. On 9 August 2015 the appellant made a fresh claim for asylum. It was refused on 15 September 2015. He made an application for judicial review. The respondent was ordered to re-make the decision. In February 2018 the fresh claim was again rejected. It was the appeal against this decision that was dismissed by First-tier Tribunal Judge Goodman.
4. Mr Bramble did accept that there were errors in the judge's decision. However, he said he had sympathy with the judge. He said we have a set of grounds which needed clarity, and which goes to eight pages; a skeleton argument which went to twenty pages; and the judge made reference to three bundles of documents relied on by the appellant which together totalled 984 pages. He said that there was no honing in of specific issues before the judge.
5. Ms Walker submitted in line with paragraph 33 of her grounds of appeal that the three bundles, A and B and C amounted to a total of 481 pages, not 984 pages as stated by the judge. In any event, I also sympathised with the judge who had so much information before her and the issues had not been properly honed to assist her.
6. The grounds for renewal on which permission was granted amounted to 34 paragraphs. Ms Walker put them into three distinct challenges.
7. The first challenge which I accept was that the judge materially erred by failing to adequately engage with the evidence of ongoing harassment of the appellant's parents by the local police, after 2011. The judge found that the evidence was slender, unconvincing and sparse. However, the judge failed to make a finding on the letter from the local lawyer, Mr P A Punethanayagam, regarding the ongoing enquiries whom the judge at paragraph 30 had described as a respectable local lawyer.
8. The judge attached little weight to the letter sent by the appellant's father to the Human Rights Commission of Sri Lanka seemingly on the basis that the letter did not mention that he was detained or beaten and did not mention that he had been shown photographs of the appellant. Ms Walker said that in his witness statement, the appellant gave an explanation as to why that evidence that been omitted, but the judge did not consider it.
9. The second challenge was in respect of the appellant's profile or perceived profile in the UK and the diaspora and his involvement with the TGTE. At paragraph 25, the judge recorded the evidence of Mr Yogalingam who is an MP of the TGTE. I accept Ms Walker's submission that the judge incorrectly recorded Mr Yogalingam's evidence that the appellant was a coordinator in the TGTE.

10. I also accept Ms Walker's submission that the judge failed to engage with the evidence in bundle C of the appellant's involvement with diaspora activities. Had she done so she would not have described the appellant as being a foot soldier in the TGTE. The appellant's evidence was that he was a separatist and was identified as such. His name has been published in international media, articles and a screenshot on YouTube in respect of his association with the TGTE in calling for the establishment of Tamil Eelam. The evidence shows that the appellant has been critical of the human rights record of the Sri Lankan government. This was a profile which the judge failed to properly engage with.
11. The third challenge was in respect of the judge's assessment of risk on return. I accept Ms Walker's submission that the judge failed to consider the significance of the visits made by the local police to the appellant's home. She failed to engage with submissions that the appellant's profile, detention and release on the payment of a bribe could lead to him being at risk on return to Sri Lanka.
12. Mr Bramble in short submitted that the appellant had a profile from a previous appeal which the judge forgot about. The judge did not take into account the letter from the attorney. Mr Bramble accepted that the appellant has a public profile as recorded in paragraphs 19 to 21 of the grounds in relation to his activities in the UK which the judge has not really considered.
13. In the light of the above submissions I find that the judge's decision discloses material errors of law such that her decision cannot stand.
14. The judge's decision is set aside in order to be re-made.
15. The appellant's appeal is remitted to Taylor House for rehearing by a judge other than First-tier Tribunal Judge Goodman.

Signed

Date: 28 February 2019

Deputy Upper Tribunal Judge Eshun