



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003760

First-tier Tribunal No: PA/00330/2024

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 07 November 2024**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**M W
(ANONYMITY ORDER MADE)**

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms K Renfrew, Counsel, Direct Access

For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

Heard at Field House on 25 October 2024

Order Regarding Anonymity

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.

DECISION AND REASONS

1. My decision will be brief as Ms Cunha conceded the appeal on behalf of the respondent.
2. The appellant is appealing against a decision of Judge of the First-tier Tribunal Juss ("the judge") promulgated on 15 July 2024.
3. The appellant is a citizen of Sri Lanka who claims to have been detained and tortured by the authorities and that an arrest warrant has been issued against him on account of his support for a prescribed organisation, known as ACTJ. He

also claims to face a risk as a result of involvement with the TGTE whilst in the UK.

4. The judge did not believe the appellant and described his evidence as incoherent and not plausible. The judge gave several reasons for reaching this conclusion, including:
 - (a) the appellant did not claim asylum immediately on arrival in the UK;
 - (b) the Islamic organisation's SLMC and ACMC are not banned;
 - (c) the appellant remained in Sri Lanka for four months after the claimed initial arrest;
 - (d) he was able to leave Sri Lanka through the airport with no difficulties using his own passport; and
 - (e) he is only a volunteer for the TGTE and therefore not at risk due to this association as only those involved with Tamil separatist activity in a committed manner face a risk according to the extant country guidance case *KK and RS (Sur place activities: risk) Sri Lanka CG* [2021] UKUT 130 (IAC).
5. The grounds are drafted with impressive clarity and succinctness. All of the grounds identify errors. The most significant points are the following:
 - (a) the judge failed to engage with expert medical evidence concerning the appellant's scarring;
 - (b) the judge failed to consider the appellant's explanation as to how he was able to leave Sri Lanka with his passport, i.e. that an agent was used and a bribe paid; and the extent to which this account is consistent with what is considered plausible in *GJ and Others (post-civil war: returnees) Sri Lanka CG* [2013] UKUT 319 (IAC);
 - (c) the judge's reference to the organisation SLMC and ACMC is unexplained and appears to be irrelevant given that the appellant's case was that he was a member of ACTJ, not these organisations; and
 - (d) the assessment of the appellant's risk fails to engage with the guidance in *KK and RS* about it not being necessary to have had a significant role in a separatist organisation.
6. Both Ms Renfrew and Ms Cunha were in agreement that the decision was undermined by material errors of law and that the case should be remitted to the First-tier Tribunal to be made afresh. I agree. The decision is not sustainable for multiple reasons and will need to be made afresh. As further fact-finding is likely to be extensive, and there is no basis to preserve any findings of fact, it is appropriate to, in accordance with the view expressed by both representatives, remit the case to the First-tier Tribunal.

Notice of Decision

7. The decision of the First-tier Tribunal involved the making of an error of law. The decision is set aside and the appeal is remitted to the First-tier Tribunal to be made afresh by a different judge.

D. Sheridan

Appeal Number: UI-2024-003760

Judge of the Upper Tribunal
Immigration and Asylum Chamber

5.11.2024