



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

Appeal Number: AA/10351/2012

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 22<sup>nd</sup> May 2013**

**Determination  
Promulgated**

**On 28<sup>th</sup> June 2013**

**Before**

**UPPER TRIBUNAL JUDGE KING TD**

**Between**

**MR VA**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: No representative or attendance

For the Respondent: Mr L Tarlow, Senior home Office Presenting officer

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Sri Lanka born on 18<sup>th</sup> October 1989. He sought to claim asylum or other protection in the United Kingdom, which application was refused by the respondent in a letter dated 2<sup>nd</sup> November 2012.
2. The appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Lal on 17<sup>th</sup> December 2012. The appeal was dismissed in all respects. Leave to appeal was however granted

against that decision and the matter first came before me in pursuance of that grant on 4<sup>th</sup> March 2012.

3. On that occasion neither the appellant attended nor any representative on his behalf. A letter from his solicitors dated 4<sup>th</sup> March 2012 indicated that they were without instructions. Letters written to the appellant at the stated address had received no response. In fairness to the appellant I adjourned the hearing in order that attempts might be made to secure his attendance at the hearing.
4. The hearing was resumed on 22<sup>nd</sup> May 2013. Once again the appellant did not attend. Notification of the hearing was sent to the appellant at his stated address.
5. Mr Tarlow, who represents the respondent, confirmed that that address was the one held in the respondent's file. Seemingly the appellant has failed to sign on as required under his bail conditions for the past three months.
6. In those circumstances it seemed to me to be in the interest of justice not to further delay the hearing and to proceed in his absence. Mr Tarlow invited me to find that there was in fact no material error of law in the decision and that the grounds of appeal were in essence an attempt to re-argue the merits of the case.
7. Essentially it was the appellant's claim that he had towards the concluding part of the struggle in Sri Lanka been required to undergo LTTE training. He was not a fighter but worked in the kitchen. He was caught up in the struggle in the closing days of the conflict and had surrendered to the Sri Lankan Army.
8. It was his case that he was transferred to camp Joseph for many months and tortured on a regular basis being kept in a single cell in detention.
9. Having secured his release from detention the appellant sought thereafter to leave Sri Lanka which he did on his own newly issued national passport with a legitimate visa issued by the British High Commission.
10. The Judge did not consider that the appellant could be reasonably viewed as "a very serious member" of the LTTE. Though he may well have been detained, as were many others of the LTTE at the conclusion of the conflict, it was the finding of the Judge that the appellant was of no further interest to the authorities. In particular his claim to be detained at camp Joseph for so long and in solitary confinement was not found to be reasonably likely given the profile of the appellant.
11. The grounds of appeal rely on eight grounds. In particular it was stressed in the grounds that the appellant had been recruited under the LTTE's policy of taking one person per household and he had been with the LTTE for one and a half years until January 2009 when he surrendered to the Sri Lankan Army. It was contended that little weight had been placed upon

the imputed political opinion and his perceived involvement rather than by his actual involvement.

12. It is clear from the determination that the Judge has considered the history of the appellant. The Judge recognised that many LTTE supporters or activists in the appellant's situation and circumstance did indeed surrender to the authorities at the end of the conflict, most of whom have now been released and allowed to return to their homes. In that connection the Judge considered **TK (Tamils - LP updated) Sri Lanka CG [2009] UKAIT 00049**.
13. Criticism is made of the Judge for the approach taken in relation to the detention at Joseph camp, particularly why the appellant being held in a single cell was implausible.
14. Given the profile of the appellant as found to be the case and indeed as admitted by the appellant it was considered by the Judge to be implausible that the appellant would have been singled out for the treatment which he has described at camp Joseph having been held in a single cell detention for many months. Such treatment would clearly be consistent with somebody regarded by the authorities as a serious member of the LTTE but not for the appellant.
15. It seems to me that that reasoning is properly open to be made in the circumstances. It is also said in the grounds that the Judge failed to acknowledge the ease by which passports can be obtained in any identity. In essence it is contended that the Judge placed too greater weight upon the fact that the appellant could leave Sri Lanka on his own passport.
16. Clearly if he had been wanted by the authorities it is surprising indeed that he would have been able to leave with such ease.
17. The other matters contend that improper findings were made in relation to the scarring and in the pursuit of points seemingly not raised by the respondent.
18. I find that the Judge had taken into proper account the profile of the appellant and had assessed the risks of return in the light of such findings. Accordingly I find that the decision was one properly arrived at and detect no material error of law.
19. It is to be recognised, however, that the situation as set out in **TK** has now been reconsidered by the Tribunal in a more recent country guidance case. No doubt if it is said by the appellant that his profile, as found by the Tribunal, was such that it would now create a risk upon return, an application could be made on that basis with fresh evidence to the respondent.
20. However for the present purposes I do not find there to be a material error of law. In those circumstances the appeal is dismissed.
21. The decisions of the first-tier Tribunal Judge shall stand.

Signed

Date 27<sup>th</sup> June 2013

Upper Tribunal Judge King TD