



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

Appeal Number: AA/06174/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 19 December 2013**

**Determination  
Promulgated**

**Before**

**UPPER TRIBUNAL JUDGE DAWSON**

**Between**

**TA**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr S Muquit, Counsel instructed by K Ravi Solicitors

For the Respondent: Mr T Melvin, Senior Presenting Officer

**DETERMINATION AND REASONS**

1. This appellant who is a national of Sri Lanka, born in 1998, appeals with permission the decision of First-tier Tribunal Judge O’Keeffe who for reasons given in a determination dated 7 August 2013, dismissed the appellant’s appeal on asylum and human rights grounds against the decision dated 12 June 2013 to remove him. He had entered the United Kingdom on 18 March 2011 with a passport and a student visa. He made

a claim to asylum on 13 May 2013. I continue the direction for anonymity made by the FtT.

2. In summary, the appellant is a Tamil from Batticaloa district in eastern Sri Lanka where his family were supporters of the LTTE, his father having joined the movement as a policeman. In 2006, when the area where they lived came under the control of the army, his father was arrested and his mother and sister were beaten up by the Karuna group which had split from the LTTE in March 2004. That arrest led to the appellant's uncle taking the family to his village. His mother's fear for her son's safety led to the appellant being sent abroad with his maternal uncle's help. The appellant studied Travel and Tourism in Singapore from 3 December 2007. Whilst he was absent his father was released on payment of a bribe and the appellant returned from Singapore on 3 December 2008 by when his visa had expired. The appellant lived thereafter in Colombo with a friend who was Sinhalese where he worked for a share broker company called SK Associates until he was arrested on 25 April 2010.
3. That arrest arose during a visit by the appellant to see his mother two days earlier. She was staying with her brother, the appellant's uncle in Kurukkalmadam. Persons wearing uniform and civilian clothing came to the house and took the appellant with them in a white van. After a drive for an hour and a half he was taken into a building where his blindfold was removed and where his handcuffs were taken off and photographs and fingerprints taken in addition to his ID card.
4. During the course of that detention the appellant was questioned about a friend of his father called Murali. This individual with two other friends had been in the LTTE. The appellant had previously met them on the bus one day in September 2009 when they asked if he could help them find a job and he did so. This was to work in his uncle's restaurant in Kluwanchikudy. A third individual, Murali, also needed help in finding work which the appellant found with his aunt for whom he worked as an ice cream van driver. The appellant was unaware that this individual had escaped from detention and was a wanted person.
5. The appellant was forced to sign a Sinhalese document. On release on payment of a bribe, the appellant was taken by his uncle and another to Colombo where he met an agent and where he stayed with that agent's sister until he left the country on 18 March 2011. Since that departure the authorities had visited the appellant's uncle's house in search of him.
6. In the United Kingdom the appellant first learnt about the asylum process towards the end of April 2013 and he became involved in London demonstrations through announcements on Tamil TV and through leaflets.
7. The judge found the appellant had told the truth as to his claim to have been assaulted by the authorities and burnt with cigarettes, taking account of a medical report from Mr Martin, a consultant in emergency medicine. As to the employment that he had arranged for the LTTE

friends of his father, the judge observed there was no evidence to suggest that the uncle and aunt, his employers, had attracted adverse attention and found it implausible the appellant had not found out whether they had come to harm. She considered the explanation that the appellant was too scared to speak even to his mother was not credible. He had had ample opportunity to make enquiries in the two years he has been in the United Kingdom and in any event he had been in touch with his relatives, in the light of evidence that his sister and uncle had been harassed by the authorities because of him. The appellant had also produced an e-mail sent to him by his paternal uncle in Sri Lanka.

8. The judge also considered it significant that the appellant had no problems with the Sri Lankan authorities in the nine months between the date of his claimed release and his arrival in the United Kingdom. The account the appellant had given was that he had not gone out from the agent's sister's house apart from four times when he had gone to the Visa Officer (there had been three previous unsuccessful applications for entry clearance). The judge considered it unlikely that the agent would not have pursued some alternative method of removing the appellant from Sri Lanka rather than making repeated unsuccessful applications for a student visa. She also found it highly unlikely that the agent would not have informed the appellant to claim asylum on arrival and referred also to his involvement in the Tamil community here on this aspect.
9. In evidence before the judge, the appellant had explained that the recent interest by the authorities included going through his sister's computer looking for his photo and that interest had not just been because he had helped his father's friends find jobs but also because he had been participating in demonstrations in the United Kingdom.
10. Having reached these conclusions the judge turned to *GJ and Others (post civil war: returnees) Sri Lanka CG* [2013] UKUT 00319 (IAC). She found it inconsistent with the background material that interest in the appellant would be re-ignited two years after he had left Sri Lanka. In the light of the sophisticated intelligence available to the authorities it was unlikely that the appellant's sister or uncle would have been harassed as claimed some three years after the appellant's last involvement with the LTTE.
11. The appellant gave evidence he had attended eight or so demonstrations in the United Kingdom and the judge accepted this. He had told the judge that thousands of people attended those demonstrations and this too was accepted. There was no suggestion that the appellant was in any way involved in organising these demonstrations and the judge also observed in the interview the appellant had said he did not know the name of the leader of the Tamil Association in this country.
12. There are three grounds of challenge to this decision. As I observed to Mr Muquit, I had difficulty in identifying exactly what the complaint was in the first which states that having accepted the detention and ill-treatment, it was important that the judge investigated the reasons for that with care.

The grounds refer to the questions which were put to the appellant by the Sri Lankan authorities on that occasion as recorded in the record of interview by the Secretary of State. It is argued that the arrest of the appellant was based on specific intelligence.

13. I understand this ground to be that having accepted the appellant was assaulted by the authorities and burned with cigarettes, it was incumbent upon the judge to examine why in order to inform risk assessment on return. It is not the case that the judge accepted the account of detention; she reached her positive finding on the assault on the basis of a medical report rather than the explanation advanced as to the circumstances that led to it coming about. Although accepting the adverse attention, the judge was not persuaded by the story of what had triggered it. She gave valid reasons at [32] for doubting the account that the appellant had been arrested based on specific intelligence and was not under an obligation to come up with an alternative account. This ground is a disagreement on the evidence and does not identify legal error.
14. The second ground of challenge relates to the judge's observations regarding the likelihood of repeated applications for a visa. It is argued that by making this observation the judge was suggesting that the appellant submitted to being trafficked out of the country with the consequent risk of being arrested and prosecuted for illegal entry in any number of countries he travelled to en route and being deported back. This was neither appropriate nor rational. I think this is a misunderstanding of the point the judge was making. She observed that given the appellant was apparently fleeing Sri Lanka for his life she thought it unlikely the agent would not have pursued some alternative method of removing the appellant. This rose out of her observation that the appellant had encountered no problems in the nine months following his claimed release. I find no merit in this ground.
15. As to the third ground, it is argued that the judge had failed to note that it was likely the appellant will be asked whether he had attended protests in the United Kingdom because of the Government of Sri Lanka's concern with the activism he had undertaken with reference to photographs carrying anti-GOSL banners. It is likely the appellant would be asked about the nature of his asylum claim and political activities in the UK with reference to *Gj*. The judge was required to determine what would happen to a returnee if he was interrogated as to whether he supported Eelam (a separate Tamil homeland) on return or whether he would be forced to deny his political principles thus raising matters which were considered by the Supreme Court in *RT (Zimbabwe)*.
16. It is not at all clear that this was the case put before the judge.
17. It cannot be argued that the judge failed weigh all the relevant factors in carrying out the risk assessment in accordance with the guidelines in *Gj*. The circumstances of other family members are addressed in [42] and [43]. Furthermore, it cannot be argued that attendance at demonstrations

alone is sufficient to create a real risk of harm. The judge's analysis is at [44]:

"The appellant's claim to be at risk on return comprises a number of composite factors; he was detained and ill-treated before as the result of helping LTTE members, the authorities retain an interest in him, he has been involved in anti-government protests in the UK and he has familial links to the LTTE. The appellant has satisfied me that he was ill-treated in Sri Lanka. There was a substantial delay in the appellant making a claim. The appellant has not provided me with any reasonable or plausible explanation for that delay. Notwithstanding his ill-treatment in Sri Lanka, I find that the appellant has not demonstrated that he left Sri Lanka in fear of his life."

Further at [45]:

"Even if I am wrong on that, the claimed ongoing interest in the appellant is not consistent with background material detailing the sophisticated intelligence available to the Sri Lankan authorities. There is no evidence that the appellant did anything more than attend protest demonstrations in London along with thousands of others. There is no evidence that he was in any other way an activist for Tamil separatism. The appellant's own evidence is that his father is no longer active for the LTTE and I consider it highly likely that his uncle is no longer active for the LTTE."

18. After correctly directing herself in accordance with *GJ*, the judge went on to observe at [46] that the appellant had adduced no evidence to show that he was involved in any attempts to revive the LTTE and the Sri Lankan authorities will be aware of that. She expanded her findings on this in paragraphs [47] and [48].
19. The question to be asked is whether the judge in her risk assessment left out any important evidence or failed to understand the guidance given in *GJ*. The answer to both points must be that she did not. Returning to the *RT (Zimbabwe)* point, in the light of the judge's legitimate conclusion that the authorities in Sri Lanka would have no interest in the appellant, it follows that there is no reasonable degree of likelihood that he would be subject to anything more than a cursory questioning on his return and would not be required to dissemble to protect himself.
20. I am therefore satisfied that the judge made no material error of law. Her decision stands and the appeal before me is dismissed.

Signed

Date 20 January 2014

A handwritten signature in blue ink, appearing to read "Dawson", with a long horizontal flourish extending to the right.

Upper Tribunal Judge Dawson