



IAC-FH-AR-V3

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

Appeal Number: AA/04854/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 6th January 2016**

**Decision & Reasons Promulgated
On 27th January 2016**

Before

Upper Tribunal Judge Chalkley

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

K R

~~(ANONYMITY DIRECTION NOT MADE)~~

Respondent

Representation:

For the Appellant: Mr E Tufan, Home Office Presenting Officer

For the Respondent: Mr N S Ahluwala of Counsel

DECISION AND REASONS

1. The appellant is the Secretary of State for the Home Department and in this determination I shall refer to her as being "the claimant".
2. The respondent is a citizen of Sri Lanka born on 19th April, 1987. He entered the United Kingdom unlawfully on 31st January, 2013 and claimed asylum on 4th February, 2013. The claimant refused the respondent's claim on 6th March, 2015 and gave directions for the respondent's removal.

3. The respondent appealed that decision to the First-tier Tribunal and his appeal was heard at Hatton Cross on 18th August, 2015 by First-tier Tribunal Judge Coutts.
4. The determination is very brief. The judge noted a psychiatric report and also noted a report from Dr Martin detailing scarring which the appellant has. The judge accepted the appellant's account and the causation of the appellant's injuries. He accepted the appellant's claim that his father is required to report and his family home is still being regularly visited by the Sri Lankan authorities in search of the appellant and he allowed the appellant's claim. The respondent's challenge suggests that the judge failed to consider the objective evidence and case law in respect of post civil war Sri Lanka which confirms that the authorities in Sri Lanka are not presently concerned with low level links to the LTTE. It suggests that had the judge considered the country guidance case of *GJ and Others (Post war: returnees) Sri Lanka CG* [2013] UKUT 00319 (IAC) he could not have concluded that the appellant was at risk on return.
5. Mr Tufan was at pains to point out that the appellant had been a low level member of the LTTE and not one who would have excited the interest of the authorities such as to come within the risk category set out in *GJ and Others*. He criticised the medical reports which of course cannot place a timing on the appellant's scars and suggests that the doctor and the judge had merely assumed that the scars were caused during the appellant's second detention rather than during his first arrest.
6. I heard lengthy submissions from Counsel. He submitted a Rule 24 response but unfortunately because it was submitted late it was not in the file when I prepared for the hearing.
7. The only part of the appellant's account which the Secretary of State did not find credible related to the payment of the bribe to secure the appellant's release from detention. The appellant explained that he did not know who had helped the appellant's uncle to locate him. The respondent did not believe that the uncle would refuse to tell the appellant but this supposes that the appellant actually asked his uncle.
8. Criticism is made by the Secretary of State of the judge for failing to give adequate reasons for accepting the appellant's credibility. With very great respect a judge is not required to explain why he finds an account credible. In this case the judge's credibility finding may well be considered to be generous, but the same can be said of the Secretary of State's credibility assessment too. However, having carefully read the determination it cannot be said that there is anything perverse (in the common law sense) about the judge's findings, the judge has considered *GJ and Others*. At paragraph 34 he has set out the head note to that case. Given that he accepted the appellant's account in its totality he was entitled to conclude as he did.

9. I find that the making of the decision by the First-tier Tribunal Judge did not involve the making of an error on a point of law. My decision is that his determination shall stand.

Notice of Decision

The appeal is allowed on asylum grounds.

~~No anonymity direction is made.~~

Upper Tribunal Judge Chalkley