



IAC-AH-SAR-V1

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

Appeal Number: AA/05496/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 19 February 2016**

**Decision & Reasons
Promulgated
On 9 May 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**AT
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ahmad, instructed by Nag Law Solicitors

For the Respondent: Mr Walker, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, AT, was born in 1980. He is a male citizen of Sri Lanka. He was refused asylum on 30 March 2015 when a decision was also made to remove him from the United Kingdom by way of directions. The appellant

appeals against the decision of the First-tier Tribunal (Judge Housego) dated 1 October 2015 which dismissing the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are six grounds of appeal. Ground 1 asserts that the judge failed to take a “global view” of the evidence and in particular found that the appellant was not credible before considering the medical evidence (contrary to *Mibanga* [2005] EWCA Civ 367). The ground goes on to assert that the judge “had no reason to doubt the narration of the appellant’s history of his life up to 10 April 2010” but found significant problems accepting the account of his life after that date.
3. I find that the ground has no merit. I do not accept the judge has only considered the medical evidence relating to this appellant after he had found, by reference to other evidence, that the appellant’s account was not credible. As the Tribunal found in *HH* (medical evidence – *Mibanga*) Ethiopia [2005] UKAIT 00164, *Mibanga* is not supposed to impose a forensic straightjacket upon judicial fact-finders [21]. The judge had to start somewhere with his analysis and the fact that he has made findings doubting the appellant’s credibility before he considered the medical report does not necessarily indicate that he has departed from his stated intention to consider the evidence as a totality. At [123 1.2] the judge concluded the appellant had not been arrested and tortured as he claimed. He noted the evidence of the doctors (Martin and Calloway) as to the scarring on the appellant’s body “covers all that is required of them”. But, indeed with the remainder of the evidence, the judge was not persuaded that the appellant’s claim was credible. I can find no error in the judge’s approach to the various items of evidence or in any part of his analysis. I also find [see 123 1.6] that the judge was entitled to find that the evidence of the appellant’s claimed mental health difficulties carried little weight because the appellant had been “not entirely truthful with the doctor”.
4. The second ground of appeal asserts that, notwithstanding the judge’s finding that the appellant’s account was not credible, the appellant would still be at risk because he fell within the risk categories identified in *Gj* [2013] CG UKUT319 (IAC). The decision is challenged for having failed at all to engage with the country guidance having found that the appellant was not credible. [201
5. I find that the ground is without merit. It is true that the judge has not engaged in any detail with *Gj* or any other country guidance but, having found that the appellant’s account of past events in Sri Lanka was not credible and that any activities in which he had been engaged sur place had been, at best, low level, there was little need for him to do so. Indeed, if the judge had gone on to discuss *Gj* he would only have done so in order to state the obvious, namely that the appellant, on the facts as the judge found them, did not fall into any of the risk categories identified in the country guidance.

6. The third ground of appeal asserts that the judge placed too little weight upon the medical evidence of the scarring on the appellant's body and also the mental difficulties which the appellant claims to suffer and which were discussed in Dr Dhumad's report.
7. It is simply not the case that the judge, as the grounds assert, "failed to give good reasons for departing where the medical report is strongly supportive" of the appellant's claim. As I have noted above, the scarring reports are not incompatible with the judge's finding that the appellant had not been arrested and tortured as he claimed. I am thoroughly satisfied that the judge has adopted a holistic approach and has only concluded that the appellant is not a credible witness by reference to all the evidence before him. However, within the context of that overall finding, I can identify no error in the judge's conclusion that the weight attaching to Dr Dhumad's report was "dependent on Dr Dhumad accepting that the belief of the appellant [as regard past events] is genuine". [97]. I refer again to the case of *HH*; the judge had to start somewhere in his analysis of the evidence and his conclusion that the appellant is not credible, a conclusion achieved following a holistic analysis, fully justified the judge attaching little weight to a medical report which was based on a false account of past events.
8. Ground 4 refers to the *sur place* claim of the appellant in the United Kingdom. The judge found that the appellant's activities had been low level if they had occurred at all, and that his account of the activities "may be manufactured" to support the claim [120]. I find that the judge did not err in concluding [121] that, "the activities which have been proven are not such as to put the appellant at risk on return". The judge's findings as regards the appellant's *sur place* activities are wholly consistent with the guidance of *Gj*.
9. Ground 5 asserts that the appellant would be subjected to Article 3 ECHR ill-treatment if detained in Sri Lanka. The judge accepted [123 1.1] that the appellant may have been a low level civilian employee of the LTTE for a short period, ending over ten years ago. There is nothing in the guidance provided by *Gj* which would indicate that such a profile would give rise to the real risk that the appellant would be detained on return to Sri Lanka and, if detained, ill-treated.
10. Ground 6 asserts that the judge failed to consider Article 8 ECHR as regards the appellant's physical and moral integrity. The judge accepted that the appellant did have some mental health difficulties including moderate depression. However, it is not clear from the grounds why that fact alone would engage Article 8 ECHR and entitle the appellant to remain living in the United Kingdom.
11. For the reasons I have given above, I find that the appellant's appeal should be dismissed.

Notice of Decision

12. This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 20 April 2016

Upper Tribunal Judge Clive Lane

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 20 April 2016

Upper Tribunal Judge Clive Lane