



IAC-AH-SAR-V1

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

Appeal Number: AA/10790/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 7 March 2016**

**Decision & Reasons  
Promulgated  
On 6 April 2016**

**Before**

**UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**MR V P  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms P Yong, Counsel

For the Respondent: Ms A Fijiwala, Home Office Presenting Officer

**DECISION ON ERROR OF LAW**

1. The appellant appeals with leave against the decision of First-tier Tribunal Judge Widdup dismissing his appeal against the decision of the respondent dated 20 November 2014 to refuse him leave to remain in the UK on asylum grounds.

2. There is a history to this appeal. The appellant first claimed asylum in 1999 in the UK which was refused on 14 September 2004. His appeal against that decision was dismissed by IJ Lawrence in March 2004. On 25 March 2007 the appellant was returned to Sri Lanka.
3. The appellant returned to the UK on 10 July 2013 and in September 2013 lodged a further claim for asylum. He was interviewed on 10 June 2014. His claim was refused on 20 November 2014 and further submissions were refused on 25 November 2014.
4. The appellant's appeal against this refusal was allowed by FTTJ Bartlett on 16 March 2015. On 18 June 2015 DUTJ Davey set aside FTTJ Bartlett's decision on the basis that it contained a material error of law for lack of adequate reasons explaining why he found the appellant to be credible in respect of his current account of events arising from 2007 and onwards and found that it gave rise to a real risk of return.
5. The appeal came before Judge Widdup on 30 October 2015. Judge Widdup's findings of fact and conclusions are set out at paragraphs 57 to 94. The judge assessed the medical reports from Dr Josse and Dr Omara and the credibility of the appellant's account in relation to the medical reports. The judge found that the appellant's account contained inconsistencies which damaged his credibility to a serious extent. He found further inconsistencies in relation to the appellant's evidence of payment of money to an official at Colombo Airport to avoid interrogation.
6. The judge then went on to say as follows:

“88. The appellant's second witness statement was signed by him in February 2015. However at the hearing before me two minor matters were rectified by the appellant. The need for those corrections caused me no concern whatsoever. However, when asked by Ms Walker to explain why he had not noticed the errors before he said that the witness statement had not been read to him line by line but paragraph by paragraph. He nevertheless said that the contents of the witness statement were true. It is unclear to me whether the appellant's use of English is good enough to give him a sufficient understanding of what was being said in his witness statement. In addition it would appear that the appellant was given an explanation of the contents of the witness statement rather than being read it line by line. There would appear therefore to be a clear danger that the appellant's witness statement has only been incompletely understood by him.

89. I will consider in the course of this decision whether that irregularity is of significance and when assessing the credibility parts of the appellant's evidence and its weight.

90. With those findings in mind I will now deal with the **GJ** guidance and whether and to what extent it is relevant to the appellant”.
7. Permission was granted by UTJ King who said that the grounds merited further consideration, particularly ground 5 and the potential missing material between paragraphs 89 and 90. He added that the notes of hearing should be copied and sent to the judge for him to comment upon ground 5 and to indicate whether and what material was omitted from the determination. It appears that this was never done.
  8. I find that there is a clear disjoint between paragraphs 89 and 90 of the determination, which raises serious concerns about whether all of the judge’s reasoning and findings are contained within the determination and whether the determination has been written with the requisite anxious scrutiny.
  9. Accordingly, I find that the judge’s decision cannot stand. It is set aside in order to be re-made.
  10. This case is remitted to Hatton Cross for rehearing by a judge other than FTTJ Widdup.

Signed

Date

Upper Tribunal Judge Eshun