



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

Appeal Number: PA/06375/2017

THE IMMIGRATION ACTS

Heard at Field House

On 14 March 2018

**Decision & Reason
Promulgated
On 16 March 2018**

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

NIMAL [V]

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S. Muquit, Counsel

For the Respondent: Ms Z. Ahmad, Senior Home Office Presenting Officer

ORDER PURSUANT TO RULE 39 OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The appellant is a citizen of Sri Lanka. He appealed to the First-tier Tribunal (“FtT”) against a decision dated 20 June 2017 to refuse a protection and human rights claim. First-tier Tribunal Judge G. Clarke (“the FtJ”) dismissed his appeal on all grounds after a hearing on 2 August 2017.
2. Permission to appeal against the decision of the FtJ having been granted, his appeal came before me.
3. By consent, the parties agreed the following:

- (i) the FtJ erred in law in his decision in terms of his assessment of credibility,
 - a) by reason of his having found at [75] that the appellant was tortured as he had claimed, yet making no findings as to what led to his being (detained and) tortured if otherwise than on the basis of the appellant's account,
 - b) by making no findings as to the circumstances of the appellant's release from detention, for example on payment of a bribe as claimed,
 - c) on the basis of inconsistency between the finding that the appellant was tortured (in detention) and yet rejecting the credibility of his account of events that led up to that detention and torture, and
 - (ii) the FtJ erred in law in terms of his assessment of risk to the appellant on return to Sri Lanka in relation to the appellant's involvement with the TGTE and his *sur place* activities; and
 - (iii) that the FtJ's decision should be set aside; and
 - (iv) that the appeal should be remitted to the FtT for a hearing *de novo* before a First-tier Tribunal Judge other than First-tier Tribunal Judge G. Clarke.
4. Having heard the parties, and considering rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I make a consent order in the terms expressed in [3] above, considering it appropriate to do so, and thus remitting the appeal to the FtT for a hearing *de novo* before a First-tier Tribunal Judge other than First-tier Tribunal Judge G. Clarke, with no findings of fact preserved.
5. The consent order is as contained herein, no separate document being required.

Upper Tribunal Judge Kopieczek

14/03/18