



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

Appeal Number: PA/08732/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 27 February 2020**

**Decision & Reasons
Promulgated
On 10 March 2020**

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

TP
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Jegarajah, counsel instructed by Greater London Solicitors Limited

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Grimmett, promulgated on 12 December 2019. Permission to appeal was granted by First-tier Tribunal Judge Scott Baker on 14 January 2020.

Anonymity

2. No direction has been made previously, however I make one now because this is a protection matter.

Background

3. The appellant travelled from Sri Lanka to Saudi Arabia during May 2008, returning in late 2010. He applied for a Tier 4 visa to the UK on 2 December 2010, which was issued shortly thereafter. The appellant entered the UK on 7 January 2011, with leave to enter until 8 May 2013. That leave was extended in the same capacity until 28 April 2014. An application for further leave was unsuccessful and the appellant's appeal against that decision was dismissed on 10 November 2015. The appellant applied for asylum during 2017.
4. The basis of the appellant's protection claim was that he is of Sinhalese ethnicity and worked in his family business in Colombo. He became acquainted with SD, a person of Tamil ethnicity in 2007. SD rented a room from a person known to the appellant and also recommended a shop in Colombo where the appellant could buy inexpensive items for the family business. The appellant would, on occasion, collect parcels for SD from Colombo and SD would collect them from the appellant's shop. On 25 April 2008 there was a terrorist attack which the appellant believed was carried out by SD, using the contents of the parcels. The appellant left for Saudi Arabia and while he was away his family were questioned about his whereabouts. The appellant returned to Sri Lanka in late 2010 and encountered no difficulties on return or during the two to three months he remained there. The appellant subsequently learned that two warrants had been issued for his arrest during 2008.
5. By way of a letter dated 30 August 2019, the respondent explained her reasons for refusing the asylum claim. The respondent accepted the appellant's identity and his account of collecting parcels for SD, however it was not accepted that the parcels contained bomb-making materials. No weight was placed upon a newspaper article which the appellant said referred to him nor the two arrest warrants, which it was not accepted would have been left with his parents. Reference was also made to the ease with which the appellant departed and entered Sri Lanka after the claimed events. In addition, the appellant provided a discrepant account during his screening interview and he had delayed in making his asylum claim. Consideration was given to the appellant's suicidal thoughts however it was not accepted that there were substantial grounds for believing that his removal would expose him to a real risk of serious harm or loss of life.

The decision of the First-tier Tribunal

6. In an 11-paragraph decision spanning 3 pages, the First-tier Tribunal rejected the appellant's account, concluding that his claim arose for reasons other than a fear of return.

The grounds of appeal

7. There were four grounds of appeal. Firstly, that the judge failed to apply country guidance in *Gj (Sri Lanka)* relating to whether it was reasonably likely he would have been stopped at the airport; secondly, the judge failed to note that the appellant provided the entire newspaper and not just the translated article; thirdly criticism was made of several of the judge's findings in relation to the arrest warrants and lastly, the judge failed to give adequate reasons.
8. Permission to appeal was granted on the basis sought, with Judge Scott Baker noting additional arguable errors in the judge's assessment of the supporting evidence.
9. The respondent did not file a Rule 24 response.

The hearing

10. While it was the appellant's appeal, Mr Jarvis helpfully gave a clear indication of the respondent's position at the outset. Describing the decision of the First-tier Tribunal as "admirably brief," Mr Jarvis accepted that the judge had not engaged with the explanation provided by the appellant for behaviour said to damage his credibility. In addition, there was force in the argument that the judge had failed to engage with the evidence in *Gj* regarding the ability of people to leave the country by payment of a bribe and had not directed himself regarding *Gj* in relation to the stop list. He was of the view that the errors set out in the first and fourth ground had a material impact on the credibility of the appellant's asylum claim. He invited me to set aside the decision in its entirety. I had no need to hear from Ms Jegarajah.
11. At the end of the hearing I announced that the First-tier Tribunal made material errors of law and that the decision was set aside, with no findings preserved. The matter was remitted to the First-tier Tribunal.

Decision on error of law

12. It was common ground that the judge's finding that the appellant would have been unable to leave Sri Lanka if he was of adverse interest to the authorities was made without reference to the evidence before the Upper Tribunal in *Gj*. Furthermore, the judge's extraordinarily brief findings were woefully inadequate given the complexities of this appeal.
13. While mindful of statement 7 of the Senior President's Practice Statements of 10 February 2010, it is the case that the appellant has yet

to have an adequate consideration of his asylum appeal at the First-tier Tribunal and it would be unfair to deprive him of such consideration.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error of on a point of law.

The decision of the First-tier Tribunal is set aside.

The appeal is remitted, de novo, to the First-tier Tribunal to be reheard at Birmingham IAC, with a time estimate of 3 hours by any judge except First-tier Tribunal Judge Grimmett.

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 28 February 2020

Upper Tribunal Judge Kamara