



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

Appeal Number: PA/09227/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 10th February 2020**

**Decision & Reasons
Promulgated
On 2nd March 2020**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**Y I
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Halim, instructed by Jein Solicitors
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Sri Lanka born in 1989. He appeals against the decision of First-tier Tribunal Judge Black dismissing his protection claim on asylum, humanitarian protection and human rights grounds.
2. The grounds as pleaded raise five issues. Grounds 1, 2 and 3 criticise the judge's approach to the expert evidence, psychiatric evidence and medical evidence. Ground 4 challenges the judge's conclusion that

notwithstanding the Appellant's was plausible in light of the background material it was nonetheless an incredible and dishonest account when viewed in the round. Ground 5 challenges the judge's treatment of the Appellant's sur place activity. Permission to appeal was granted by First-tier Tribunal Judge O'Brien on all grounds on 12 December 2019.

3. At the hearing before me, Ms Everett conceded that, having found that the Appellant was a member of a proscribed organisation and his name had been published in connection with such activities including on the internet and newspapers published in Sri Lanka, the Appellant would be at risk on return. I heard submissions from Mr Halim on the remaining grounds of appeal but it is not necessary to go into detail on the points made in this decision.
4. There was no challenge to the First-tier Tribunal Judge's findings at paragraph 63 and 70:

“63.I accept the Appellant has been involved in Tamil Diaspora activities in the UK since about September 2018. I accept also that his name has been published in connection with a limited number of such activities. It has been published in various places, including on the internet and newspapers published in Sri Lanka.”

“70. There is no doubt that his activities have been published and that they remain in the public domain. He is identifiable by name and photographs to the Sri Lankan authorities. I do not doubt that they are aware of his participating in Tamil Diaspora events in the UK. He could not have come to their attention until about September 2018 because he did not take part in such activities prior to this date. Thus he has only been participating in such events for about a year.”

5. Given these findings, the Appellant would be at risk on return following GJ (Sri Lanka) CG [2013] UKUT 319 (IAC):

(7) *The current categories of persons at real risk of persecution or serious harm on return to Sri Lanka, whether in detention or otherwise, are:*

(a) *Individuals who are, or are perceived to be, a threat to the integrity of Sri Lanka as a single state because they are, or are perceived to have a significant role in relation to post-conflict Tamil separatism within the diaspora and/or a renewal of hostilities within Sri Lanka.*

(9) *The authorities maintain a computerised intelligence-led watch list. A person whose name appears on a watch list is not reasonably likely to be detained at the airport but will be*

monitored by the security services after his or her return. If that monitoring does not indicate that such a person is a Tamil activist working to destabilise the unitary Sri Lankan state or revive the internal armed conflict, the individual in question is not in general likely to be detained by the security forces. That will be a question of fact in each case, dependent on any Diaspora activities carried out by such an individual.

6. The judge accepted that the Appellant had met with numerous MPs and his activities have been published on the internet and in the newspaper. He was a member of the TGTE. Although the judge doubted the Appellant's motives for his sur place activities her conclusion that he would not be perceived as a Tamil activist working to destabilise the unitary Sri Lankan state or to revive the internal armed conflict was irrational, given her findings that he was easily identifiable as a member of a proscribed organisation, his photograph and name appeared in several newspapers and internet sites, and the Sri Lankan authorities would be aware of his activities here in the UK.
7. Accordingly, I find that there is an error of law in the decision dated 28 October 2019 and I set aside the decision to dismiss the appeal and remake it. The appeal is allowed on asylum and human rights grounds.

Notice of Decision

Appeal allowed

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 his 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.

J Frances

Signed
Upper Tribunal Judge Frances

Date: 14 February 2020

TO THE RESPONDENT FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

J Frances

Signed

Date: 14 February 2020

Upper Tribunal Judge Frances