



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-003261

First-tier Tribunal Nos: PA/55398/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**15 October 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SAINI**

**Between**

**SP**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr M Sowerby, Counsel; Shanthi & Co Solicitors

For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

**Heard at Field House on 25 September 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION BY CONSENT AND DIRECTIONS**

1. Pursuant to Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and by the consent of the parties the following order is made:

- (1) Upon the parties' agreement that the decision of the First-tier Tribunal promulgated on 6 June 2024 discloses material errors of law, it is hereby ordered by consent as follows.
- (2) The parties agree that the First-tier Tribunal Judge committed errors of law in the manner described in the Grounds of Appeal, in particular as pleaded as follows at Grounds 1 and 2:

GROUND 1: The FTTJ errs in law in failing to provide reasons for central findings of fact

2. The Appellant fears persecution in Sri Lanka on the basis that her husband accrued vast amounts of debt, and she had been threatened by loan sharks who had loaned her husband the money.

3. In paragraph 19 of the Determination the FTTJ states inter alia:

'..... She cannot have a genuine fear of persecution on return because of the lapse of time and the unlikelihood that any loan sharks would be able to locate her. In any event there is sufficiency of protection in Sri Lanka, and she could relocate internally, even as a loan (sic.) woman. ....'

4. However, the FTTJ errs in failing to provide any reason as to why:

(i) the lapse of time prevents the Appellant from having a genuine fear of persecution;

(ii) the unlikelihood that any loan shark would be able to locate her;

(iii) the sufficiency of protection is available to her;

(iv) she could internally relocate within Sri Lanka.

5. The FTTJ's error in this regard is compounded by his failure to consider the Appellant's evidence that she has unsuccessfully attempted to relocate in Sri Lanka in the past; she has gone to the police, but nothing came of it and, further, the loans have only been partially repaid (see paragraphs 17 and 18 of the Appellant's statement dated the 28th September 2023).

6. In the absence of reasons for central findings of fact, the Appellant is unable to know that her appeal has been properly determined.

7. Accordingly, it is submitted that the FTTJ has materially erred in law in making unreasoned findings of fact.

GROUND 2: The FTTJ errs in law failing to make any proper finding as to whether or not the Appellant is a credible witness

8. In paragraph 7 of the Determination, the FTTJ states:

'The respondent accepted that the appellant had received threats previously from loan sharks, and that she had been trafficked to

the UK to work as a domestic servant. A reference to the National Referral Mechanism (NRM) was made on 11 July 2023, and a conclusive grounds decision is currently awaited.'

9. However, in paragraph 19 of the Determination, the FTTJ states *inter alia*:

'..... Her late claim for asylum goes to her credibility under s.8 of the Asylum and Immigration (Treatment of Claimants, ETC) Act 2004.'

10. The Respondent accepted that Appellant's account of being targeted by loan sharks in Sri Lanka and, further, that she was the victim of trafficking. However, by referring to section 8 of the 2004 Act, the FTTJ appears to raise issues as to the Appellant's credibility.

11. It is submitted that The FTTJ errs in law in failing to identify any concerns that he may have had in relation to the Appellant's credibility.

- (3) In short, Mr Lindsay, accepted that there was an inadequacy of reasoning and a failure to make a clear finding on credibility or give reasons in support of the conclusions reached at §19. Mr Sowerby added that this was a material omission, particularly if the FTTJ was minded to find against the Appellant, as the Refusal Letter had already accepted the Appellant's credibility.
- (4) As a consequence of the above agreed errors, with which I concur, the decision is hereby set aside in its entirety and thus requires remaking, *de novo*.
- (5) The parties agree that given that the decision is set aside in its entirety the matter would benefit from being remitted to the First-tier Tribunal where findings of fact can be made.
- (6) In addition, the parties both noted that there was new material produced under Rule 15(2A) of the Procedure Rules 2008 which established that the Appellant had since received a Conclusive Grounds decision in relation to her trafficking and had now resided in the United Kingdom for over 20 years and may be eligible for a grant of leave under the Immigration Rules. These are new matters which are not before me as the matter is being remitted; but I note from Mr Sowerby that, upon remittal, these two new issues may give rise to the Appellant making section 120 representations which Mr Lindsay indicated may lead to the production of a new or amended decision from the Respondent, in line with her published Guidance.
- (7) I am thus fortified in my view that this matter should be remitted to the First-tier Tribunal for further case management and determination.

### **Directions**

2. I make the following directions for the continuation of this appeal:
  - (1) The appeal is to be remitted to IAC Hatton Cross and shall be listed for a Case Management Review Hearing (CMRH) in the first instance.

- (2) At any *de novo* hearing that follows, the Appellant shall require a Sinhalese interpreter.
- (3) At present, the only witness that will give evidence before the First-tier Tribunal is the Appellant.
- (4) Standard directions are to be issued, but either party is at liberty to apply for any further direction, as so advised.
- (5) The appeal is to be remitted to be heard by any judge of the First-tier Tribunal other than Judge Sweet.

***P. Saini***

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

10 October 2024