



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004899

First-tier Tribunal No: PA/00711/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 28th of January 2025

Before

UPPER TRIBUNAL JUDGE O'BRIEN

Between

TT
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Smith of Counsel, instructed by A-Law Solicitors

For the Respondent: Mr Walker, Senior Home Office Presenting Officer

Heard at Field House on 15 January 2025

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 AND REASONS

1. The appellant was born on 2 April 2002. He is a citizen of Sri Lanka.
2. The appellant appeals with the permission of First-tier Tribunal Judge Boyes against the decision of First-tier Tribunal Judge Chinweze ('the judge')

promulgated on 9 September 2024 dismissing his appeal against the respondent's refusal of his protection and human rights claim.

The Parties' Respective Cases

3. The grounds of appeal alleged 6 errors of law: the judge failed to take into account the appellant's minority and other vulnerabilities when assessing credibility; the judge failed to give adequate reasons for rejecting the expert conclusions of Dr Smith; the judge misapplied extant country guidance; the judge failed to take into account the evidence of the appellant's aunt and uncle; the judge failed to take into account evidence of widespread bribery in Sri Lanka; and the judge failed to take into account the basis on which the appellant had entered the United Kingdom when assessing the case under Article 8 ECHR. Judge Boyes granted permission on all 6 grounds.
4. The respondent did not submit any rule 24 response and Mr Tufan accepted at the hearing that the judge had erred, in particular in the manner outlined in grounds 1, 2 and 6.

Submissions

5. Whilst the judge notes at [1] the appellant's date of birth and acknowledged at [3] the appellant's age at the time of the events in question, there appears to be no consideration of the appellant's age when deciding whether he is telling the truth. Indeed, it is difficult to see where the judge considers the appellant's veracity, instead appearing to reject the account on plausibility grounds (see for instance rejection of the claim to have been released upon payment of a bribe at [35]).
6. I was concerned in any event with the judge's rejection of Mr Smith's opinion on the risk facing the appellant was a member of a 'martyr family'. No issue was taken or found with Dr Smith's expertise. Whilst it is open to a judge to reject expert opinion, he must give adequate reasons for doing so. The judge appears to have misunderstood the opined reason for the authorities' interest in the appellant: thinking that it was to obtain information on his LTTE relatives ([29] etc), rather than as a 'potential threat' himself (per para 14 of Dr Smith's report).
7. Mr Tufan also accepted that the judge had failed to take into account in his Article 8 assessment, when rejecting the existence of family life between the appellant and his aunt and uncle the fact that he had joined them as a minor via a Dublin III transfer.
8. For these reasons, I accept the respondent's concession that grounds 1,2 and 6 disclose material errors of law. Moreover, given that they go to the heart of the judge's assessment of both protection and Article 8 appeals, it will be necessary to remit the case to the First-tier Tribunal to be heard afresh.

Notice of Decision

1. The appeal is allowed.
2. The judge's decision involved the making of an error of law and is set aside.

3. The appeal is remitted to the First-tier tribunal to be heard by a different judge with no findings of fact reserved..

Sean O'Brien

Judge of the Upper Tribunal
Immigration and Asylum Chamber

23 January 2025