



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: AA/00467/2015**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7 July 2015**

**Decision and Reasons  
Promulgated  
On 13 July 2015**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**MR K N  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms A Radford, Counsel (instructed by Tamil Welfare Association)

For the Respondent: Mr N Bramble, Home Office Presenting Officer

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Cox on 2 June 2015 against the decision of First-tier Tribunal Judge Wright made in a decision and reasons promulgated on 8 May 2015 dismissing the Appellant's asylum, humanitarian protection and human rights appeals.

2. The Appellant is a national of Sri Lanka, born on 14 October 1969. He had appealed against his removal from the United Kingdom, a decision taken by the Respondent on 22 December 2014. The Appellant was detected with a false passport while in transit to Canada on 4 March 2012, having previously been refused visas for the United Kingdom twice in 2009. He claimed asylum the same day. He stated that he feared to return to Sri Lanka because of his LTTE involvement and connections.
3. When granting permission to appeal, First-tier Tribunal Judge Cox considered that it was arguable that Judge Wright had failed to engage with the Appellant's case including the background evidence and country guidance applicable. It was arguable that the judge had erred when reaching his adverse credibility findings by failing to consider materially relevant supporting evidence. (There was no challenge to the judges' dismissal of the Article 8 ECHR private life claim.)
4. The Respondent filed notice under rule 24 indicating that the appeal was opposed. Standard directions were made by the tribunal and the appeal was listed for adjudication of whether or not there was a material error of law.

#### *Submissions*

5. Ms Radford for the Appellant relied on the grounds of onwards appeal earlier submitted, together with the grant of permission to appeal. Counsel submitted that the judge had erred by failing to take into account the Appellant's involvement in the British Tamil Forum ("BTF") which would lead to his being on the "stop" list, the evidence given to the UNHCR enquiry and his family history which included the commemoration of his late brother as an LTTE martyr. The credibility findings were defective because the judge had failed to put the Appellant's claims into their proper context.
6. Ms Radford developed those submissions in dialogue with the tribunal. Her submission was that the judge had either overlooked, or accepted but found disingenuous, the Appellant's membership of the BTF. Either way his findings were unclear. The issue was whether the Appellant was a member of the BTF as he had claimed to be and so was on a "stop" list. That was not to be confused with a "watch" list. There had been no finding about evidence given to the UNHCR, although this had been part of the Appellant's case. The fact that it was to the UN did not eliminate risk. The profile of the Appellant's late brother was important and had not been disputed. The judge failed to apply GJ and Others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC) to that fact. The judge's credibility assessment had contained misunderstandings and errors, with undue weight being given to minor or non-existent discrepancies. The

decision and reasons should be set aside and the appeal reheard by another judge in the First-tier Tribunal.

7. Mr Bramble for the Respondent relied on the Respondent's rule 24 notice. He submitted that the decision and reasons disclosed no error of law. The current objective evidence did not support the claimed error of law in relation to the "stop" list for BTF members, irrespective of the Appellant's disputed membership claim. There was no evidence that any submission made by the Appellant to the UNHCR had ever been sent to Sri Lanka, let alone had come to the attention of the authorities there. The Appellant's family history had been sufficiently covered, as the chronology at [3] of the decision and reasons showed. There was no obligation on the judge to set out each and every reason he had for disbelieving the Appellant. The judge's credibility findings had been thorough and included careful consideration of the medical evidence. The Appellant's complaints at most were just a disagreement with the judge.
8. In reply, Ms Radford reiterated her client's case. There was support in the objective evidence for the BTF risk factor which the judge had missed. The adverse credibility findings were unsound.

*No material error of law*

9. The tribunal accepts Mr Bramble's submissions. In the tribunal's view, the grant of permission to appeal was generous. As always, the judge's decision and reasons needed to be read as a whole, which Ms Radford's grounds of appeal and subsequent submissions conspicuously failed to do. Indeed, her submissions seemed premised on the basis that the judge had set out to dismiss the appeal, which no fair reading of his decision can support. On the contrary, there was a meticulous examination of what was a case with numerous documents from both sides, to which the judge devoted ample hearing time and subsequent consideration. The experienced judge set out the Appellant's case and his evidence, including that of his expert medical witness, in considerable and accurate detail: see, e.g., [3], [26] and [41] of the decision. There can be no sensible doubt that the judge fully understood the context of the claim and had the current country background firmly in mind at all times.
10. The judge similarly gave detailed reasons for finding that the Appellant had not given a credible account of his claimed fears of return to Sri Lanka: see [39] to [43]. The judge explained that these were a summary of his concerns. The judge was required to explain how he saw the case and did so. Plainly some of his concerns were of more substantial significance than others, as he recognised, but the judge was obliged to consider the evidence as a whole (with anxious scrutiny) and to bring all matters to account when applying the lower standard. Ms Radford seized on a few of those numerous concerns, and argued that they were mistaken. The judge found that the

Appellant's claimed connection with the BTF was false: see [45], which it is important to read as a whole, alongside the earlier adverse credibility findings. The Appellant was not believed and there was thus no risk from that source and no question of the Appellant's being on a "stop" list for that reason on the judge's finding of fact. The Home Office Country Information and Guidance, 28 August 2014, which was noted by the judge, provides inadequate support for Ms Radford's assertions about the BTF: see CIG paragraphs 1.3.9ff and 2.36: "There have been no known arrests based on membership of one of the newly proscribed groups". The judge dealt adequately with the Appellant's hearsay evidence said to have been provided through the BTF to the UNHCR at [45]. There was no evidence before the judge that such weak evidence was ever used by any commission of enquiry anywhere, let alone that the Sri Lankan authorities were or even might have been aware of it.

11. The alleged profile of the Appellant's late brother was noted by the judge (see, e.g., [39]) and found not to be a source of real risk. The judge reviewed all of his findings against GJ (above): see [44] and [49]. He also reviewed the Appellant's case on several alternative bases, demonstrating abundant anxious scrutiny: see, e.g., [51].
12. In the tribunal's judgment, the multi layered adverse credibility assessment which the judge reached was open to him and is sustainable. His decision was a comprehensive and thoughtful reflection on the various issues raised in the appeal. There was no error of law. There is no basis for interfering with the judge's decision to dismiss the Appellant's appeal, which dismissal must stand.

### **DECISION**

The tribunal finds that there is no material error of law in the original decision, which stands unchanged

**Signed**

**Dated**

**Deputy Upper Tribunal Judge Manuell**