



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

Appeal Number: AA/11152/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 29 February 2016**

**Decision & Reasons
Promulgated
On 7 March 2016**

Before

Upper Tribunal Judge Southern

Between

NAVAGEETHAN NAVARATNARAJA

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D. Coleman of counsel

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

DECISION

1. The appellant has been granted permission to appeal against the decision of First-tier Tribunal Judge Mozolowski who, by a decision promulgated on 13 November 2015, dismissed the appellant's appeal against refusal of his asylum and human rights claims.

2. As it is common ground and agreed between the parties that First-tier Tribunal Judge made an error of law that was material to the outcome so that her decision cannot stand, it is necessary only to record that the parties are plainly right to reach that agreement and for me to identify briefly the nature of the error of law.
3. At the heart of the appellant's claim to be at risk of being subjected to persecutory ill-treatment on return to Sri Lanka was his account of being arrested, detained for a period after which he was released on bail and of an arrest warrant having been issued after he failed to attend his scheduled court hearing so that he will, on that account, be on a stop list which would bring him to the adverse attention of the authorities upon return. Central to the reasoning that led the judge to reject that account as untrue was her reliance upon information in the Sri Lanka Country of Information Report that a warrant for arrest would not be issued after a single failure to appear because the COIR recorded that:

“A lawyer in Colombo agreed that a warrant for arrest is served after the third occasion a person fails to appear”

So that the judge concluded that the appellant's account was:

“in direct opposition to the information in the COI Report”

4. However, there was set out in the COI a range of views, one of which specifically supported the appellant's account of a warrant being issued after a single failure to attend court. Therefore, the judge has taken a selective approach to the country evidence and has left out of account information supporting the appellant's claim and in so doing has left out of account a material consideration and so made an error of law. Given the central importance of this finding of fact, plainly the error was a material one.
5. There were, frankly, a number of other significant errors made by the judge in arriving at her adverse credibility findings but, as it is agreed that the error described above is sufficient to establish that her decision cannot stand, it is not necessary to examine those other errors.
6. The parties are also plainly correct in agreeing that the determination must be set aside in its entirety and the appeal determined afresh. To that extent, the appeal to the Upper Tribunal is allowed.

Summary of decision:

7. First-tier Tribunal Judge Mozolowski made a material error of law such as to require that her decision be set aside in its entirety.

8. The appeal is remitted to the First-tier Tribunal to be determined afresh by a different judge of that Tribunal.
9. To that extent, the appeal to the Upper Tribunal is allowed.

Signed



Date: 29 February 2016

Upper Tribunal Judge Southern