



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

Appeal Number: PA/07535/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 26<sup>th</sup> October 2018**

**Decision & Reasons  
Promulgated  
On 9<sup>th</sup> November 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PEART**

**Between**

**[P T]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Benfield of Counsel

For the Respondent: Ms Kiss, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Sri Lanka. He was born on [ ~ ] 1994. His appeal against the respondent's decision dated 28 July 2017 refusing his claim for asylum, humanitarian protection and on human rights grounds was dismissed by Judge Ripley (the judge) in a decision promulgated on 24 May 2018.

2. The grounds claim the judge erred in failing to give adequate reasons for rejecting evidence, failure to give consideration to medical evidence, insufficient reasons for rejecting evidence from the appellant's witnesses and failure to take account of the country guidance with regard to sur place activities.
3. Judge Lever refused permission to appeal on 12 June 2018. He said inter alia as follows:

*"3. The judge had set out fully the evidence and the submissions in this case. At [35] he had noted that he had considered all the documentary and oral evidence together with the submissions. He had looked at the psychiatric evidence first and had noted that he had taken that into account when assessing the evidence. At [40] the judge made an assessment of the Appellant's mental health as part of the evidence in the round and reached findings that were available to him. In that same paragraph he had made reference to the aunt's evidence and he was clearly aware of that evidence. In like manner the judge had referred to the letter from a lawyer and had made findings in relation to that evidence. He was entitled to reach those findings. He had looked carefully at the risk on return in light of the country guidance case relating to sur place activities and generally. He gave reasons for his finding that there was no real risk on return. This was a case that had been dealt with in detail and with care where there were a number of credibility issues. The lengthy grounds of appeal are in reality no more than a disagreement with the judge's findings which were open to him on the evidence."*

4. The grounds were renewed to the Upper Tribunal. It was argued that in refusing permission to appeal, Judge Lever failed to give detailed consideration to the grounds of appeal as drafted:

*"The FtTJ refuses permission on the grounds that Judge Ripley did consider the evidence (namely from the attorney and the appellant's aunt) and did consider the country guidance in relation to sur place activities. The appellant contends that merely referring to evidence does not amount to an engagement with that evidence which accords with the Tribunal's duty to consider the claim with anxious scrutiny. With respect to FtTJ Ripley, it cannot be said that the conclusions on risk arising from sur place activities is sustainable, and on that basis, permission is sought."*

5. Upper Tribunal Judge Freeman granted permission on 19 September 2018. He said inter alia, *"The renewed grounds are about the judge's treatment of various sources of evidence. There is an arguable point on how she dealt with the consultant psychiatrist's opinion on causation of the appellant's PTSD and the others may be argued if necessary."*

**Submissions on Error of Law**

6. Ms Benfield relied upon the grounds.
7. Ms Kiss acknowledged the judge materially erred in failing to give adequate reasons for rejecting evidence. Nevertheless, Ms Kiss asked me to preserve the judge's findings at [10] - [22] of the decision.

**Conclusion on Error of Law**

8. I find the judge materially erred for the reasons set out in the grounds and conceded by Ms Kiss with regard to ground 1 that there was a failure to give adequate reasons for rejecting evidence.
9. Given the issues with regard to interpretation and also given the fact that the judge accepted that the appellant was a vulnerable witness, I find it inappropriate to preserve any of the findings.

**Decision**

The decision is set aside in its entirety and will be remade de novo following a new hearing before a different Tribunal in the First-tier.

No anonymity direction is made.

Signed

Date 2 November 2018

Deputy Upper Tribunal Judge Peart