



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/02088/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 29 September 2015

On 30 September 2015

Before

Deputy Upper Tribunal Judge MANUELL

Between

SM

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Iqbal, Counsel (instructed by Vasuki Solicitors)

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 Pooler on 9 July 2015 against the decision of First-tier Tribunal Judge Coll made in a decision and reasons promulgated on 16 June 2015

dismissing the Appellant's asylum, humanitarian protection and human rights appeals.

2. The Appellant is a national of Sri Lanka, born on 11 June 1991. She had appealed against her removal from the United Kingdom, a decision taken by the Respondent on 22 January 2015. The Appellant had entered the United Kingdom as a Tier 4 (General) Student Migrant on 29 September 2011, having applied for her visa in India where she claimed that she was then living with her mother. The Appellant's application to amend the terms of her Tier 4 (General) Student Migrant visa was refused on 24 December 2012. Further applications to extend her Tier 4 (General) Student Migrant visa followed, the last of which was refused on 7 April 2014. The Appellant commenced the asylum claim process on 16 September 2014. She stated that she feared to return to Sri Lanka because of her LTTE involvement and family connections.
3. When granting permission to appeal, First-tier Tribunal Judge Pooler considered that it was arguable that Judge Coll had erred in finding that the Appellant's credibility had been damaged because there was no explanation for her failure to claim asylum at the first opportunity. The judge had not sufficiently addressed the explanation given. No encouragement was given to the pursuit of the various other grounds raised. (No Article 8 ECHR claim had been pursued.)
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 Iqbal 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 explanations for her admittedly late asylum claim. Ms Iqbal developed those submissions in dialogue with the tribunal. There had been insufficient engagement with the evidence the Appellant had put forward and inadequate reasoning. Nor had the judge dealt with the evidence given by the Appellant's brother. The credibility findings were defective because the judge had failed to put the Appellant's claims into

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

6. 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 Appellant's complaints at most were just a disagreement with the judge. The decision and reasons should stand.
7. Ms Iqbal indicated that there was nothing she wished to add by way of reply.

No material error of law

8. The tribunal accepts Mr Bramble's submissions. In the tribunal's view, the grant of permission to appeal was far too generous a response to what was no more than a feeble reasons challenge. As always, the judge's decision and reasons needed to be read as a whole, which the Appellant's grounds of appeal and subsequent submissions conspicuously failed to do.
9. The judge examined the case put forward by the Appellant in the round, with evident anxious scrutiny. The background circumstances in which the Appellant eventually made her asylum claim were highly relevant, as the summary set out above at [2] of the present determination shows. As the judge had noted at [13] onwards of her decision, not only had the Appellant failed to claim asylum at the first reasonable opportunity having admitted a "slight fear" on entry to the United Kingdom [14], she had made repeated applications as a Tier 4 (General) Student Migrant and had gone as far as threatening judicial review against the Secretary of State (see [21] and [60]), indicating as was too obvious for the judge to need to say, abundant access to legal advice. The Appellant also had two brothers in the United Kingdom, one of whom had been refused asylum but had obtained leave to remain under the "legacy" scheme as the judge had recorded at [55].
10. The judge summarised her conclusion on delay at [61] of her determination, but that was reached in the context described at [59] that the Appellant was not entirely credible, something of an understatement. The judge found (among other matters) substantial inconsistency, vagueness, the submission of a false bank statement with the complicity of the Appellant's

mother, that the Appellant's mother's claimed arrest did not in fact occur, and that there was no arrest warrant despite the Appellant's claim to the contrary: see [64]ff of the determination. Thus the Appellant was not a reliable witness and the judge's finding on delay was reached on that basis.

11. The evidence given by the Appellant's brother was set out at [55]ff of the determination. Given the weakness of the evidence which the Appellant had provided concerning her association with the TGTE, and the reasons provided for discounting the Appellant's mother's evidence, the Appellant's brother's evidence was self evidently of no value and required no additional notice.
12. The only material evidence of the Appellant which the judge accepted was that which had been safely and independently corroborated, relating to the Appellant's attendance at demonstrations in the United Kingdom: see [74]ff of the determination, which the judge found after considering the guidance set out in GJ and Others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC) was not a source of real risk.
13. In the tribunal's judgment, the multi layered adverse credibility assessment which the judge reached was open to her and is sustainable. Her decision was a comprehensive reflection on the various issues raised in the appeal. There was no material 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