



IAC-FH-AR-V2

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

Appeal Number: AA/04077/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 30 July 2015
Prepared 30 July 2015**

**Decision & Reasons Promulgated
On 16 September 2015**

Before

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY
UPPER TRIBUNAL JUDGE WARD**

Between

**V S
(ANONYMITY DIRECTION CONTINUED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Martin, Counsel, instructed by Kanaga Solicitors

For the Respondent: Miss J Isherwood, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Sri Lanka, date of birth 2 October 1976, appealed against the Respondent's decision, dated 13 June 2014, to make removal directions under Section 10 of the Immigration and Asylum Act 1999, a human rights and asylum based claim having been rejected and a form IS151AS having been served on 2 June 2014.

2. An appeal against that decision came before First-tier Tribunal Judge A Kelly who, on 23 February 2015, promulgated his decision in which he dismissed the appeals based on Refugee Convention and humanitarian protection grounds as well as in respect of Article 2 and 3 of the ECHR.
3. It is to be noted that although Article 8 had been raised in the grounds of appeal to the First-tier Tribunal, it was not a matter pursued at the hearing before the judge nor does it form any part of this current application.
4. The Appellant was then represented by Mr Jaisri, Counsel, who is experienced in immigration matters. We have seen the skeleton argument that he advanced to the judge and we have also seen the extensive typed Record of Proceedings by the judge.
5. The centrepiece of the complaint was essentially that the judge, having made a number of positive findings about the Appellant's account of events, failed to properly consider the facts that the Appellant had signed a confession, which he could not read but whose contents he was told of and that he had departed unlawfully from Sri Lanka. On return this would mean more than simply he would not be able to enter the country without risk through the circumstances of the confession he had signed but also that there would be continuing concern that he was involved in seeking to restore the fortunes of the LTTE and destabilise Sri Lanka.
6. Miss Isherwood argued that the judge had done enough, addressed the issues as raised, had made an assessment with reference to the relevant case law of the Appellants claimed fears, past adverse interest and the real risk of him suffering ill-treatment on return.
7. We have been helpfully taken through the decision of Judge Kelly and the way the arguments were advanced to him. We noted that the issue of the Appellant's departure and means of departure to India was not put forward as a specific basis on risk to the Appellant on return, nor was it argued in conjunction for example, with the previous detention or the contents of the confession signed by the Appellant that that posed a particular and continuing risk. Given that the Appellant was represented by experienced Counsel, it did not seem to us that this would have been a point lost in the course of the hearing. It did not feature in Mr Jaisri's skeleton argument, nor in the submissions made to the judge by either party at the hearing in the First-tier Tribunal.
8. We note the judge had taken the view that the risks particularly associated with the cause of the Appellant's detention and connection with a person known as "AP" did not give rise to a continuing risk on return. We think that properly reflected the way the case was being put to the judge, with the Appellant likely to be placed on a watch list, and the Appellant might be monitored on return. The judge's assessment was fact specific to the First-tier Tribunal hearing and one which the judge was entitled to reach.

9. It is trite law that it is not open to this Tribunal to interfere with decisions of the First-tier Tribunal simply because we might have come to a different conclusion. In the circumstances therefore, having carefully considered Mr Martin's arguments, we are satisfied that the judge made no material error of law and that the views he reached on the facts, having heard and assessed the credibility of the Appellant and the witnesses, was entirely one for him to make and with which we should not interfere.
10. For these reasons we dismiss the appeal. The Original Tribunal's decision stands.

NOTICE OF DECISION

The appeal is dismissed.

The anonymity direction is continued.

Signed

Date 13 August 2015

Deputy Upper Tribunal Judge Davey

We have dismissed the appeal and therefore there can be no fee award.

Signed

Date 13 August 2015

Deputy Upper Tribunal Judge Davey