



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

Appeal Number: AA/03011/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 10<sup>th</sup> November 2014**

**Decision Promulgated  
On 21<sup>st</sup> January 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

**S R  
(Anonymity Direction Made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Paramjorthy, instructed by Vasuki Solicitors

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**DECISION AND REASONS**

**The Appellant**

1. The appellant is citizen of Sri Lanka born on 19<sup>th</sup> February 1977 and he appealed against the decision of the respondent dated 29<sup>th</sup> April 2014 to remove him from the United Kingdom by way of directions under Section 10 of the immigration and Asylum Act 1999 following the refusal of international protection.
2. Judge of the First Tier Tribunal Symes refused the appellant's appeal on all grounds.

3. The appellant made an application for permission to appeal and this was granted by First Tier Tribunal Judge Brunnen.
4. The Judge rested his rejection of the appellant's credibility in part on discrepancies in the evidence and recorded such discrepancies at [21] of the determination. However the judge failed at [21] of the determination to take account of or make findings in respect of the appellant's explanation for the perceived discrepancy in relation to who accompanied him in travelling to Chennai. The Record of Proceedings indeed acknowledges that the appellant gave an explanation as to the discrepancy in the travel arrangements. Further, the Judge fails to acknowledge the representations that the bribe alleged to have been paid that the appellant's evidence throughout was not inconsistent [see AIR 95]. These errors were relevant to important factors in the Judge's overall assessment which in turn led to an adverse credibility finding against the appellant.
5. When approaching the medical evidence the judge cited **JL (medical reports-credibility) China [2013] UKUT 145 (IAC)** but stated at [25] that the medical evidence failed to acknowledge that the appellant's account was challenged by the Secretary of State which undermined Dr Lingam's view. In fact the medical report acknowledged the Secretary of State's refusal letter. The Judge also appeared to reject the evidence as it relied 'heavily on the explanation tendered to him by the appellant for his scars and overall I do not consider that this is the kind of report that can outweigh the concerns I have raised above'. As the findings in respect of the appellant's credibility, cited at paragraph 4 above, are flawed, these must in turn taint the Judge's findings in respect of the appellant's medical evidence.
6. There was further challenge in respect of the sur place findings and in relation to overall scrutiny of the evidence because, despite dismissing the claim, at [33] the judge found that the appellant had a well founded fear of persecution. The latter appears to be a typographical error but as I have found an error of law in respect of the findings on credibility I set aside the decision in its entirety.
7. The matter should be returned to the First Tier Tribunal for a hearing de novo because of the nature and extent of the findings to be made.
8. The matter is listed for 29<sup>th</sup> April 2014 and a Tamil interpreter is to be present. Any further evidence is to be served on both the opposing party and the Tribunal at least 14 days prior to the substantive hearing.

Signed

Date 10<sup>th</sup> November 2014

Deputy Upper Tribunal Judge Rimmington