



## HIGH COURT OF AUSTRALIA

Public Information Officer

17 June, 2003

RE MINISTER FOR IMMIGRATION AND MULTICULTURAL AFFAIRS; EX PARTE  
APPLICANT S20/2002

APPELLANT S106/2002 v MINISTER FOR IMMIGRATION AND MULTICULTURAL  
AFFAIRS

Both matters concern a claim to refugee status by a Sri Lankan man. The first matter concerned an application for remedies available under section 75(v) of the Constitution against the Minister and the RRT. The second matter is an appeal from a decision of the Full Court of the Federal Court.

The man arrived in Australia in 1995 on a two-month visa. Just before a temporary resident visa ran out he applied for a protection visa, claiming to be a refugee. He claimed he had been taken into custody in Sri Lanka and tortured for two months because he gave accommodation to two Tamil Tigers (members of the Liberation Tigers of Tamil Eelam). After his release he fled to Australia.

The man's claim was rejected by a delegate of the Minister in 1997. The RRT in 1999 and the Federal Court in 2000 affirmed the decision. The Full Court of the Federal Court dismissed an appeal in 2001. The man alleged the RRT's determination refusing a protection visa was irrational, illogical and not properly based on findings or inferences of fact. The RRT held his evidence, including that his whole family had been arrested and killed by security forces, was implausible and lacked credibility. The RRT then discounted evidence from three witnesses: a former Sri Lankan Air Force flight engineer who saw that the man on his release from Colombo Fort could not walk properly, and had facial injuries and broken teeth; a Sri Lankan dentist who wrote a report saying the state of his teeth could have resulted from an assault; and an Australian doctor who wrote a report that the man had had surgery for a hernia, uncommon in 27-year-olds, and which was consistent with the man telling him he had been beaten with rifle butts.

The High Court of Australia, by majority, held that the RRT's decision had not been shown to have been illogical, irrational or lacking a basis in findings or inferences of fact supported on logical grounds. It held that someone's credibility could be so weakened in cross-examination that a tribunal may well treat any corroborative evidence as of no weight. The Court also held that the grounds of judicial review under section 476(1) of the Migration Act had not been established and no other ground was shown for the Court to exercise its original jurisdiction.

The Court rejected the application for constitutional writs and by a 4-1 majority dismissed the man's appeal.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*