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**Re: Dr O.M. Prakash Arora v General Medical Council [2012] EWHC 1560
(Admin)**

Background

Dr Arora appeared before the Fitness to Practise Panel ('panel') in May and June 2011. The hearing before the panel was a review conducted in accordance with Rule 22 of the General Medical Council (Fitness to Practise) Rules 2004. The panel determined that Dr Arora's fitness to practise was impaired by reason of deficient professional performance and breaches of conditions previously imposed upon his registration. The panel directed that his name should be erased from the medical register.

Dr Arora appealed against the finding of impairment and the sanction of erasure.

Appeal

The appeal came before Mrs Justice Lang on 16 May 2012. The judge had a preliminary issue to deal with. During the course of the hearing an issue had arisen in relation to the introduction of 'fresh' evidence which is dealt with in paragraphs 2 to 5 of the judgment. The judge determined that the evidence which Dr Arora wished to place before her should be excluded.

Mrs Justice Lang sets out the grounds of appeal in paragraphs 6 and 7. Dr Arora appealed against the finding of impairment on a number of grounds set out in paragraph 6 and against the sanction of erasure in paragraph 7.

The history of Dr Arora's case is at paragraphs 8 to 17 in which Mrs Justice Lang sets out the performance assessment team's conclusions in full in paragraph 16 and the panel's determination on impairment and erasure at paragraph 17.

She then sets out the legal position in paragraphs 18 to 21, thereafter her conclusions in relation to Dr Arora's appeal as follows:

Paragraph 22

'In my judgment, the appellant has not been able to demonstrate in this appeal that the Panel's determination was wrong. The appellant's performance has been found to be seriously deficient over a long period of time. Extensive efforts to provide him with supervised practice, retraining and remediation have failed. He has also failed to comply with the conditions imposed upon him by the GMC.'

Paragraph 23:

'In a lengthy determination, the Panel carefully analysed the evidence, taking into account the points made on the appellant's behalf. I cannot find any error in their approach or their conclusions. The evidence of seriously deficient performance and the impairment of fitness to practise was overwhelmingly strong.'

Paragraph 24:

'The performance assessment system is standard and has been independently validated. The GMC adapted the assessment to take account of the fact that the appellant had been out of practice for years. They assessed him at training rather than specialist grade; they did not require him to undertake simulated surgery; and they did not conduct a peer review. Dr Grey gave evidence about the procedure adopted and the Panel satisfied itself that the assessment was valid and fair.'

Paragraph 25:

'Finally, in considering the appropriate sanction, the Panel correctly applied the GMC's Indicative Sanctions Guidance, starting from the lowest level of sanction. Conditions had been imposed on previous occasions but there had been little progress. The appellant also lacked insight into his deficiencies and, as I have already said, had not fully complied with the conditions imposed.'

Paragraph 26:

'On the evidence, there was no prospect of remediation or of a return to practise, and therefore erasure was the proportionate and appropriate sanction.'

In the circumstances Mrs Justice Lang dismissed the appeal.

Salient Points

- Reminder that the GMC's performance assessment process is standard and has been independently validated.
- Where there is no prospect of remediation or a return to practise the sanction of erasure may be a proportionate and appropriate sanction.