

## PUBLIC RECORD

Dates: 08/08/2024 and 21/08/2024

Medical Practitioner's name: Dr Arvind SINGH

GMC reference number: 4279503

Primary medical qualification: MB BS 1985 Kanpur

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

## Summary of outcome

Suspension revoked

## Tribunal:

Legally Qualified Chair	Mrs Alison Storey
Lay Tribunal Member:	Miss Susan Hurds
Medical Tribunal Member:	Dr Jonathan Leach
Tribunal Clerk:	Mr Andrew Ormsby – 08/08/2024 Mrs Anne Bhatti – 21/08/2024

## Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Mr Andrew Molloy, Counsel

## Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

## Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

## Determination on Impairment - 21/08/2024

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Singh's fitness to practise is impaired by reason of misconduct.

## The Outcome of Applications Made during the Impairment Stage

2. The Tribunal granted Dr Singh's application, made pursuant to Rule 34 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to submit screenshots of CPD that he had undertaken. Mr Halliday, on behalf of the GMC opposed this application, whilst noting that any unfairness towards the GMC was '*limited*'. The Tribunal considered the screenshots of evidence of CPD that Dr Singh had undertaken were relevant and noted that the doctor had stated that the reason that he had not adduced the evidence before was '*ignorance*' of what was required. The Tribunal noted that Dr Singh was not legally represented and determined that it was fair to allow the doctor to demonstrate how he had met the requirements to allow him back on the register and potentially show the Tribunal what learning he had undertaken.

## Background

3. Dr Singh qualified MB BS in 1985 from Kanpur, India. He gained full GMC registration in 1996. In June 1998, Dr Singh commenced employment with Barking, Havering & Redbridge University Hospitals NHS Trust ('the Trust'), where he was practising as an Associate Specialist in Anaesthesia at the time of events.

4. On 15 July 2020 at approximately 8:20am, Ms A, XXX, was leading a daily meeting ('the huddle') in the corridor outside four operating theatres at Queens Hospital ('the

Hospital'). There were approximately 15 members of staff present at the huddle. At Dr Singh's hearing, which took place between 3 July 2024 and 13 July 2024 (the 2023 Tribunal), it was found proved that, whilst Ms A was addressing the huddle, Dr Singh had walked up behind Ms A and grabbed her buttocks with both of his hands. This conduct was found to have been done without Ms A's consent and was sexually motivated.

5. The initial concerns were raised with the GMC following a local investigation by the Trust in response to the incident, which concluded in late 2021.

#### The 2023 Tribunal

6. The 2023 Tribunal having found the facts proved determined that Dr Singh's conduct fell so far short of the standards reasonably to be expected of a doctor as to amount to serious misconduct.

7. The 2023 Tribunal noted that this was a single incident and not part of a wider course of conduct. It acknowledged that there had been no repetition of the behaviour since the incident, and Dr Singh previously held an unblemished record. However, the Tribunal was satisfied that grabbing the bottom of a female colleague in front of other colleagues amounted to serious misconduct.

8. The 2023 Tribunal considered that Dr Singh's actions towards Ms A were disrespectful and humiliated her in front of her colleagues, and undermined her authority while she was briefing them for the day. It also considered from Ms A's evidence that Dr Singh's actions had a significant impact on her and was satisfied that Dr Singh's behaviour was completely unacceptable.

9. The 2023 Tribunal considered that Ms A had the right to be treated with dignity and respect, particularly by colleagues, whilst in the workplace. The 2023 Tribunal was satisfied that other members of the profession would find this conduct serious and deplorable.

10. The 2023 Tribunal considered that it had seen no evidence of remediation. It could not be satisfied that Dr Singh had a sufficient understanding of the gravity of his misconduct and the impact it had on Ms A and could have on the wider profession. It determined that this apparent lack of insight, resulted in there remaining a significant risk of repetition.

11. The 2023 Tribunal determined that Dr Singh's fitness to practise was impaired by reason of his misconduct and considered that it would have damaged public confidence in the profession had a finding of impairment not been made. It was therefore of the view that given its finding of serious misconduct, a finding of impairment of fitness to practise was necessary to promote and maintain public confidence in the medical profession and to promote and maintain proper standards of conduct for the medical profession.

12. The 2023 Tribunal considered that, on the spectrum of cases of a similar nature, this was not the most serious example, given that the incident was a single isolated event, performed through clothing, was not predatory, and ceased very quickly. In the circumstances, it considered that Dr Singh had the potential to develop his insight if given a further opportunity to do so. The 2023 Tribunal did not consider that it could be said at that stage that Dr Singh had demonstrated a persistent lack of insight into his actions and their consequences.

13. The 2023 Tribunal had noted that Dr Singh had apologised to Ms A on more than one occasion. It noted that, although the apology was without acceptance of responsibility, it at least acknowledged that Ms A had been upset by the contact between them, which demonstrated that Dr Singh has some (albeit limited) concept of the effect his actions might have had on her.

14. Further, the 2023 Tribunal considered that Dr Singh was of previous good character, having no previous fitness to practise findings made against him. The testimonials provided to the Tribunal indicated that he was otherwise well regarded, and that this incident was apparently out of character.

15. The 2023 Tribunal determined that a period of suspension was required and determined to suspend Dr Singh's registration for a period of 12 months.

16. The 2023 Tribunal considered that, at that point, the case was not one where the misconduct was 'fundamentally incompatible with continued registration' and that erasure would be punitive and disproportionate.

17. However, the 2023 Tribunal noted that its decision to suspend the doctor was finely balanced and it could have determined to erase Dr Singh's name from the register without giving him a further opportunity to demonstrate what he has learned from this experience.

18. The 2023 Tribunal determined to direct a review of Dr Singh's case and indicated that it may assist the reviewing Tribunal if Dr Singh provided:

- A detailed written reflection on his misconduct, particularly showing:
  - An understanding of the impact of inappropriate sexual touching on victims and the profession; and
  - The effects of this incident upon Ms A, his work colleagues, and the general public.
- Evidence of courses that he has attended, particularly those targeted around professional boundaries and/or sexually motivated, non-consensual behaviour;
- Testimonials from individuals aware of this Tribunal's findings;
- Evidence that he has maintained his medical skills and knowledge; and
- Any other information that he considers will assist the reviewing tribunal.

### The Evidence

19. The Tribunal has taken into account all the evidence received, both oral and documentary.

20. The Tribunal received documentary evidence which included but was not limited to:

- Record of determination, 14 July 2023;
- Letter from GMC to Dr Singh, 23 August 2023;
- Emails between GMC and Dr Singh regarding review hearing date, dated 24 April 2024;
- Email from MPTS to Dr Singh confirming new hearing date, dated 30 April 2024;
- Email from MPTS to Dr Singh with Case management directions, dated 1 May 2024.

21. Dr Singh provided a reflective document, dated 15 May 2024 and also gave oral evidence at the hearing. The doctor also presented screenshots of CPD he had undertaken.

22. The Tribunal also received testimonials from the following on Dr Singh's behalf:

- Ms C;
- Dr D, Consultant Anaesthetist;
- Mr B, Consultant Orthopaedic Surgeon, dated 30 April 2024;
- Dr E, Associate Specialist Trauma & Orthopaedics, dated 1 May 2024;

- Mr F, a Senior Operating Department Practitioner, undated ;
- Dr G, undated;

#### Dr Singh's Evidence

23. Dr Singh was asked to expand on his brief reflective statement, and he was able to go through the headings he had set out in that statement and speak about them in some detail. These topics included the impact of his misconduct on Ms A, the public, and the profession.

24. In relation to Ms A, he acknowledged that she had been traumatised and had felt unable to accept his apology. He acknowledged that she would have difficulty working alongside him and would not have wanted to, it created strained relations. She would have suffered a loss of confidence. He understood and empathised and had apologised and apologises again today.

25. He understood that Ms A would not have known what was in his mind when the incident occurred and would have felt that something strange was happening. He emphasised that he had not undertaken any contact with Ms A before this by phoning or texting or otherwise “stalking” her.

26. He said that he understood that patients would find it difficult to trust a doctor who had not treated a colleague with respect, and a patient should not be put in that position.

27. He acknowledged that female staff would not feel safe if people could be abused in the workplace and “get away with it”. He said that it could cause colleagues fear. Further, it could cause colleagues to feel that they could behave in a similar way.

28. He acknowledged that it embarrassed the profession and that it was not a good example to junior doctors, to disrespect anyone in the hospital.

29. He concluded that people should be respected in the workplace, not abused. He assured the tribunal it would not happen again. He had thought about and reflected on this incident a lot in the last three years. He had discussed it many times with family members.

30. Dr Singh referred to relevant online training he had completed on the ‘Tell Jane’ website. This was an ‘Introduction to Sexual Harassment’ which dealt with appropriate behaviour. He had also completed a webinar on that site.

31. He said he had completed three different courses about sexual harassment on the 'Alison' website. From these courses he had learned about the impact of the misconduct, as outlined in his reflective statement and his oral evidence.
32. He accepted that he had not produced certificates for these courses. This was because they required a payment, but he had completed the courses in full, including the tests at the end of each. These tests required an 80% accuracy in the answers, and he passed them all.
33. Dr Singh was asked about how he had kept his clinical knowledge and skills up to date. He referred to reading journals including the BMJ. He had completed BMA courses which were free.
34. He had read in detail about some topics which interested him such as diabetes management and Parkinson's disease.
35. He held discussions with friends who were in the medical profession, and they also kept him up to date, in relation to neuro anaesthesia, which was his own field. These people included his former clinical director and an orthopaedic surgeon. They would talk about what was new.
36. He had not been able to complete courses in this specialised area as they were not free, and as he has not been able to work for three years he could not meet the cost. Those available which were free were too superficial to be of use.
37. Dr Singh was asked about maintaining his skills in emergency situations. He said that he had not been able to do anything practical due to his suspension, but did read a lot, including topics such as heart arrhythmias and cardiac stenosis.
38. He confirmed that although he had no formal documents to evidence his learning from articles he had read, he does keep records of what he has read and was able to produce some of these records which were screen shots of files on his computer. These included:
- The Sexual Offences Act 2003
  - The Sex Discrimination Act 1975
  - "Alison" website courses

Understanding and Preventing Sexual Harassment  
Sexual Harassment in the Workplace  
Conflict Resolution in the Workplace

39. In addition there were files on relevant medical topics, with titles including:

- Kaplan Cardiac Anaesthesia (assessment of cardiac risk)
- Aortic Stenosis
- Central Catheterisation
- Giant Cell Arteritis
- Angiotensin II Receptor Blockers
- Complications of Invasive Monitoring
- Several papers on cardiac and pulmonary topics and hypertension/hypotension.

40. It was noted that many of the papers in his file were quite historic, from early to mid-20<sup>th</sup> century. Dr Singh said that he liked to read about a topic right from the beginning, to understand how the topic had developed, that was his method. He was reading for his own knowledge.

## Submissions

### Submissions on behalf of the GMC

41. Mr Halliday submitted that Dr Singh had demonstrated little insight and remediation and that his fitness to practise remained impaired by reason of his misconduct.

42. Mr Halliday submitted that Dr Singh's reflections document was brief and showed little to no insight into his actual failings or shortcomings.

43. Mr Halliday further stated that the Tribunal might note that when Dr Singh apologised to the previous Tribunal that he apologised for what he considered to be an accident rather than actually apologising for the misconduct.

44. Mr Halliday emphasised that Dr Singh's reflections document was short and that it listed topics rather than actually addressing the points relating to his misconduct. There was no substantive, discursive or reflective discussion. He stated that it referred to the possible



effects on Ms A but did not enter into a detailed and meaningful discussion as to how the doctor's misconduct had actually affected Ms A. Mr Halliday stated that the brevity of the doctor's reflections after having had a year to produce them demonstrated a lack of insight on the part of Dr Singh.

45. Mr Halliday submitted that, whilst Dr Singh had said that he respected the decision of the 2023 Tribunal, this was immediately contradicted in his reflections when the doctor stated that he stood by his original pleadings. He stated that the doctor was trying to relitigate the findings of the 2023 Tribunal.

46. Mr Halliday stated that the Tribunal had limited information to assist it as to the nature of Dr Singh's insight and remediation. Further, he stated that there was little evidence of the CPD that Dr Singh had attended and reminded the Tribunal that the onus was on the doctor to demonstrate that he had carried out such CPD.

47. Mr Halliday noted the complimentary testimonials that Dr Singh had received and emphasised that there had never been any concern as to the doctor's clinical practice. However, he stated that, what was a theme, was that most of the testimonials reference the outcome of the 2023 hearing rather than the decision itself. Further, he stated that there was criticism of the outcome within some of the testimonials. Mr Halliday invited the Tribunal to infer that there was doubt as to whether those who provided the testimonials had read the full decision and stated that there was no evidence to say that they had.

48. Mr Halliday referred to *Yusuf v General Medical Council* [2018] EWHC 13 (Admin) and noted that a doctor who maintains his innocence may nevertheless show that he fully appreciates the gravity of the offence alleged. He stated that admitting the misconduct was not a condition precedent into establishing whether the registrant understands the gravity of the offending and if it is made apparent that the registrant does not accept the trust of the findings, questioning should not focus on the denials of the previous findings.

49. Mr Halliday concluded by inviting the Tribunal to find that there was limited evidence of insight and that Dr Singh's reflections did not go '*anywhere near*' what was required in order for the doctor to properly remediate and understand what his behaviour was; how it affected other people; and how it should and can change to ensure that it does not happen again. He stated that, although the previous Tribunal did not consider that there was a risk of repetition, the onus was on the doctor to demonstrate that he had developed proper insight to ensure that this does not happen again and that he is safe to return to work.

Dr Singh's submissions

50. Dr Singh maintained that he had not intentionally touched Ms A and that it was just an accident and denied the 2023 Tribunal's findings that his conduct was sexually motivated.

51. Dr Singh submitted that it was difficult for him to accept the findings of the 2023 Tribunal and stated that he had been in practice for 30 years and nothing like this had ever happened to him before and that it was an accident. However, he understood and accepted that the 2023 Tribunal had made its decision.

52. Dr Singh submitted that the regulatory proceedings had affected both him and his family and that he thought about the events every day.

53. Dr Singh submitted that he understood how such misconduct could affect public confidence in the profession and his colleagues and noted that a colleague could think that they could also act in such a way if they had witnessed such misconduct. He also noted that Ms A was obviously traumatised, and he had attempted to apologise to her multiple times and that *'she had lost confidence in the system'*.

54. Dr Singh stated that he had carried out CPD dealing with sexual harassment as outlined in his evidence but had not paid for the relevant certificates to evidence this.

55. Dr Singh said he had been reading journals in order to keep his medical knowledge up to date, as set out in the screenshots provided and his oral evidence.

56. Finally, Dr Singh told the Tribunal that there had been no incidents before this incident and no complaint about his conduct after the incident, although he did continue in his role for another 13 months. He wanted to assure the Tribunal that it would never happen again.

**The Relevant Legal Principles**

57. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

58. This Tribunal must determine whether Dr Singh's fitness to practise is impaired today, taking into account Dr Singh's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

59. When considering insight the Tribunal should consider the case of *Sayer v GOC* 2021 EWHC 370 Admin where it was held that it is proper to take into account, when weighing up insight, the registrant's understanding of and attitude towards the underlying allegation.

### **The Tribunal's Determination on Impairment**

60. The Tribunal considered whether Dr Singh's fitness to practise remains impaired by reason of his misconduct.

61. The Tribunal acknowledged that the previous 2023 Tribunal had not considered that Dr Singh's misconduct was incompatible with continued registration but, rather, was remediable.

62. It noted that Dr Singh had provided reflections which focused on the impact that his misconduct, whilst noting that he still denied the 2023 Tribunal's findings.

63. The Tribunal bore in mind that the case of *Yusuf v GMC* makes it plain that a practitioner is entitled not to accept the findings of the Tribunal. Alternatively, they are entitled to say that they have accepted the findings in the sense that they do not seek to go behind them, while still maintaining a denial of conduct. When considering whether a practitioner's fitness to practice remains impaired it is relevant for the Tribunal to know whether or not the practitioner now admits the misconduct, but admission is not required to establish that they understood the gravity of the offending and are unlikely to repeat it.

64. The Tribunal did not consider that Dr Singh's current stance prevented him from demonstrating insight, by showing that he understood the gravity and impact of the misconduct and that he was unlikely to repeat it.

65. The Tribunal considered that, whilst they could not be considered to be detailed, Dr Singh's written reflections had provided some evidence of insight into the effects of his misconduct upon Ms A and the profession and noted his apologies to Ms A.

66. In his oral submissions he had provided a more detailed explanation of his understanding of the impact of his actions and the Tribunal were impressed with his ability to explain this, without notes. The Tribunal found him to be genuine and credible. The Tribunal considered that Dr Singh did show full insight into the effects of his misconduct in relation to its effects on Ms A, the public and the profession.

67. The Tribunal further considered that Dr Singh had made efforts to understand the impact of sexual harassment by reading legislation and by completing courses relating to that topic. He said that he had obtained the insight he included in his reflective statement from completing those courses. The topic of those courses and the legislation appear to be relevant to the misconduct and capable of providing Dr Singh with a good understanding of the effects of such behaviour. The Tribunal considered that he did have that understanding.

68. The Tribunal also acknowledged that Dr Singh had provided evidence of CPD, albeit in the form of screenshots of courses he had completed and reading he had done, rather than certification. Whilst these were on a wide variety of topics and some were of some age, they did show that Dr Singh had continued to pursue his interest in medicine. The Tribunal also noted that he had been able to engage in regular discussion with other professionals to help keep up to date with developments as well as reading journals.

69. The Tribunal considered that it would be difficult to keep his practical clinical skills up to date due to his suspension, and that he had been out of practice for three years. However, Dr Singh had 30 years' experience, and it was apparent from the references supplied that he was a highly regarded anaesthetist. The misconduct related to his behaviour and there had never been any concern about his clinical skills and the Tribunal considered that he had made sufficient efforts to keep his knowledge up to date.

70. The Tribunal bore in mind that Dr Singh had been of previous good character.

71. It also noted that Dr Singh had engaged with the regulatory process and had provided all that the 2023 Tribunal had suggested would be required by a reviewing Tribunal. Although it noted that it would have ideally preferred in depth and detailed written reflections, the Tribunal found that the oral reflections were sufficiently detailed and genuine.

72. The Tribunal was satisfied that Dr Singh has remediated his misconduct through targeted courses, in depth reflection and by seeking counsel from others. It acknowledged that he maintains that he did not act deliberately when he touched Ms A. However, given the

evidence before the Tribunal today, it was satisfied that he has accepted the findings of the 2023 Tribunal, and that his insight into his misconduct has developed considerably since then. His level of insight is now sufficient, and the Tribunal has concluded that the risk of repetition is very low.

73. The Tribunal was satisfied that the maintenance of public confidence in the medical profession, and the promotion and maintenance of proper professional standards and conduct for members of that profession has been served by the 12-month suspension imposed on Dr Singh's registration. The Tribunal considered that a finding of impairment would serve no useful purpose. Further, the public would be deprived of an otherwise able and competent doctor.

74. Accordingly, the Tribunal has therefore determined that Dr Singh's fitness to practise is no longer impaired by reason of misconduct.

75. The Tribunal further determined to revoke the order of suspension currently imposed on Dr Singh's registration with immediate effect.

76. That concludes this case.

ANNEX A – 08/08/2024

**Extension of current sanction**

1. The Tribunal did not have sufficient time to conclude the hearing in the time remaining. As such, it determined to adjourn this hearing part heard.
2. The Tribunal noted that the order of suspension on Dr Singh's registration is due to expire on 18 August 2024.
3. The Tribunal referred to paragraph 170 of the Sanctions Guidance:  
  
*'Where a review hearing cannot be concluded before the conditional registration or suspension expires, the tribunal can extend it for a short period. [footnote Section 35D (5) and (12) Medical Act 1983 as amended]. This would allow for relisting of the review hearing as soon as practicable and to maintain the status quo before the outcome of the review hearing'.*
4. It determined that the public interest could not allow Dr Singh to remain without sanction until the hearing had been concluded given his current impaired fitness to practise in relation to his review hearing.
5. The Tribunal concluded that allowing Dr Singh to return to unrestricted practise in the current circumstances would not be consistent with the Tribunal's duty to protect the public and maintain proper professional standards.
6. As the hearing is being adjourned until after the date on which the suspension would otherwise expire, the Tribunal determined under section 35D(5)(a) of the Medical Act 1983 to extend the current order of suspension on Dr Singh's registration for a period of one month from the expiry of the current order of suspension on 18 August 2024.
7. The MPTS will send Dr Singh a letter informing him of his right of appeal and when the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.