

**PUBLIC RECORD**

Dates: 27/10/2023

Medical Practitioner's name: Dr Desh SINGH

GMC reference number: 2280523

Primary medical qualification: MB BS 1973 Allahabad University

**Type of case** **Outcome on impairment**

Review - Misconduct Impaired

**Summary of outcome**

Erasure

Immediate Suspension

**Tribunal:**

Legally Qualified Chair	Miss Debi Gould
Lay Tribunal Member:	Ms Jacqueline Telfer
Medical Tribunal Member:	Dr Laura Florence
Tribunal Clerk:	Mrs Jennifer Ireland

**Attendance and Representation:**

Medical Practitioner:	Not present, not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Megan Tollitt, Counsel

**Attendance of Press / Public**

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

**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 - 27/10/2023**

1. At this review hearing the Tribunal 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.

### **Background**

2. Dr Singh qualified in 1973 at Allahabad University. The concerns in this case included that, in November 2017, in an application to the GMC to restore his licence, Dr Singh answered 'no' to various questions relating to previous regulatory investigations against him and any actions taken on his licence. Further, that in an application to National Health Service England ('NHSE') National Performers List ('NPL'), he failed to declare his previous removal from the NPL and the previous suspension of his registration following a GMC Professional Conduct Committee ('PCC') hearing in 2002. The GMC alleged that Dr Singh's responses on the forms were untrue and that he acted dishonestly.

3. Dr Singh's case was first considered by a Medical Practitioners Tribunal ('the 2022 Tribunal') between 24 January 2022 and 1 February 2022.

### The 2022 Tribunal

4. At the outset of the 2022 Tribunal, Dr Singh made a number of admissions, including that his registration had been suspended from the Medical Register by the PCC in April 2002, and that he answered 'no' to questions in his application to the GMC to restore his licence and in his application to the NHSE to be restored to the NPL.

5. In view of the admissions made by Dr Singh, the 2022 Tribunal considered whether Dr Singh knew, at the time of completing the applications, that the information he provided was untrue. The 2022 Tribunal was not satisfied that Dr Singh knew that the information was untrue. It considered that it was likely that Dr Singh may have believed the PCC sanction issued in 2002 was no longer relevant given that findings are retained for 10 years. It was, however, of the view that Dr Singh had acted recklessly and failed to provide full details.

6. The 2022 Tribunal also considered whether Dr Singh's actions were dishonest. It determined that Dr Singh's actions were not dishonest and accepted that Dr Singh had a genuinely held belief that the NPL were already aware of the previous regulatory findings. Further there was no evidence of concealment and he was honest and open about the previous findings made against him. It was satisfied that while Dr Singh had clearly been reckless in his actions, there was insufficient evidence to demonstrate dishonesty.

7. The 2022 Tribunal found that Dr Singh had breached paragraphs 65, 66 and 71 of Good Medical Practice (2013) ('GMP'), that his conduct did not just relate to a single question on one form but related to several entries made on two separate forms, and occurred on separate occasions over a year apart. The 2022 Tribunal was concerned about Dr Singh's understanding of the regulatory process and the difference between the GMC and the NPL. The 2022 Tribunal was also concerned about his apparent poor record keeping practice and lack of attention to detail, and his lack of understanding of the involvement of, and engagement with, the Care Quality Commission ('CQC') in the Practice where he worked from 2004 to 2017. Further, that Dr Singh's alleged behaviour, if extended into his own professional practice, was likely to adversely impact on patient care and potentially put patients at risk. The 2022 Tribunal therefore determined that Dr Singh's conduct amounted to serious misconduct.

8. No submissions were made by Dr Singh's Counsel into Dr Singh's insight or steps taken by him to remediate his misconduct, nor was any evidence provided of any learning opportunities or personal reflections into the impact of his actions. The 2022 Tribunal was concerned that despite the passage of time since the events, Dr Singh continued to demonstrate little understanding of the requirements within the forms, and he had taken no steps to improve his understanding of the contents of the forms or why the questions required complete answers. No evidence had been provided on Dr Singh's behalf of any efforts to complete further training to improve his compliance with the GMC and NPL in future. The 2022 Tribunal noted the submissions on Dr Singh's behalf that he expressed deep regret and had apologised for his errors and omissions. However, the 2022 Tribunal determined there was insufficient evidence of insight and remediation. In the circumstances, it concluded that there remained a significant risk of repetition.

9. The 2022 Tribunal determined that a finding of impairment was necessary to uphold all three limbs of the overarching objective.

10. In relation to sanction, the 2022 Tribunal considered imposing the more serious sanction of suspension. However, it was mindful of the misconduct identified in this case, and the length of the period of suspension imposed on Dr Singh's registration by the Interim Orders Tribunal – almost two years – which would have had a significant impact on him. In the circumstances, the 2022 Tribunal considered a further period of suspension was not a necessary or proportionate sanction as it did not justly satisfy the three limbs of the overarching objective.

11. The 2022 Tribunal therefore determined to impose conditions upon Dr Singh's registration for a period of twenty-four months, with immediate effect. It considered that conditions would properly protect, promote and maintain the health, safety and wellbeing of the public, by allowing Dr Singh to work in general practice while, at the same time, improving his knowledge and skills to diminish the risk of repetition. The 2022 Tribunal also considered that allowing Dr Singh to return to practise safely was in his interests and in the interests of the wider public, who could ultimately benefit from his skills and experience. The 2022 Tribunal further concluded that an order of conditions would allow him to continue to work towards completing his journey of remediation, and demonstrate, with objective evidence, that he had learnt from his past failings and had implemented steps to address them. Finally, the 2022 Tribunal determined that a period of conditional registration would adequately mark the misconduct found and would uphold the overarching objective.

12. The 2022 Tribunal directed a review hearing. It advised Dr Singh that a reviewing Tribunal would be assisted by receiving the following information:

- Evidence of any remediation;
- Personal reflective statement;
- Evidence of any courses he has attended;
- Any other information which Dr Singh considers would assist the Tribunal.

### **Today's Review Hearing**

13. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the Rules whether Dr Singh's fitness to practise is impaired by reason of misconduct.

### **The Outcome of Applications Made during the Impairment Stage**

14. The Tribunal granted an application made by Ms Tollitt, Counsel on behalf of the GMC, pursuant to Rules 15 and 40 of the Rules and determined that notice of this hearing had been properly served on Dr Singh. It also granted the GMC's application made pursuant to Rule 31 of the Rules to proceed with the case in Dr Singh's absence. The Tribunal's full decision on both applications is included at Annex A.

15. The Tribunal also considered and granted an application made by Ms Tollitt, pursuant to Rule 41 of the Rules, for parts of the hearing relating to XXX be heard in Private.

### **The Evidence**

16. The Tribunal had regard to the documentary evidence provided by the parties at this stage of the hearing. This evidence included but was not limited to:

- Record of Determination of the 2022 MPT hearing, dated 24 January 2022 to 1 February 2022;
- Emails sent to Dr Singh and his former legal representatives by the GMC requesting him to complete his Personal Development Plan ('PDP') and undergo a GMC Performance Assessment, on various dates between 22 March 2022 and 8 March 2023; and
- Emails between the GMC and Dr Singh's former legal representatives, discussing XXX, on various dates between 20 July 2022 and 12 April 2023.

### **Submissions**

17. On behalf of the GMC, Ms Tollitt submitted that Dr Singh's fitness to practise remains impaired by reason of misconduct.

18. Ms Tollitt submitted that Dr Singh has failed to complete the required Performance Assessment, or submit his PDP and, in doing so, has failed to comply with the order of conditions imposed on his registration. She submitted that there has been a clear lack of engagement from Dr Singh since the 2022 Tribunal. The GMC have had no direct contact with Dr Singh since that time and any correspondence has come from his previous legal representative.

19. Ms Tollitt submitted that it appeared that the reason given by Dr Singh's former legal representatives for the failure to complete the Performance Assessment or to provide the PDP related to XXX. She submitted, however, that neither Dr Singh's former legal representatives nor Dr Singh have provided XXX to support the reasons given for him not complying, except for XXX.

20. Ms Tollitt submitted that the GMC has given Dr Singh multiple opportunities to engage with the process and allowed extensions to deadlines for documents to be provided where that has been appropriate. Despite that, she submitted, matters have not improved. Dr Singh did not attend the earlier listing of this review hearing listed to take place on 18 August 2023, which was adjourned to enable him additional time to find alternative legal representation or decide to represent himself. She further submitted that Dr Singh has made no contact at all with his regulator since that hearing.

21. Ms Tollitt submitted that the 2022 Tribunal had recommended that Dr Singh provide further evidence of remediation and a further reflective statement, as well as evidence of any courses that he had attended. It was also noted that Dr Singh had been away from clinical practise for a number of years at the time of the 2022 Tribunal. She submitted that none of those recommended documents or any other supporting evidence have been provided. Ms Tollitt reminded the Tribunal that there was a noted risk of repetition identified by the 2022 Tribunal, and there is limited, if any, information before this Tribunal to indicate that that has been addressed.

22. Ms Tollitt submitted that Dr Singh has failed to comply with the conditions imposed on his practise as well as the absence of any supporting evidence relating either to XXX or steps taken to address the misconduct identified. She therefore invited the Tribunal to conclude that Dr Singh's fitness to practise remains impaired by reason of misconduct.

### **The Relevant Legal Principles**

23. 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 practice.

24. This Tribunal must determine whether Dr Singh's fitness to practise is impaired today, taking into account his 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.

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

25. The Tribunal first reminded itself of what the 2022 Tribunal determined Dr Singh's failures to be, which included inaccurately completing applications and documents, which are necessary to ensure adequate regulation of the medical profession. The 2022 Tribunal noted that the regulatory requirements are put in place to protect the public and maintain confidence in the profession. Both documents, which were the subject of the 2022 Tribunal, were required to be completed fully and accurately to enable Dr Singh to return to practise as a GP; a role with significant privilege and responsibility. The 2022 Tribunal also considered that this was not a single isolated incident, but occurred on two separate occasions over a year apart.

26. The Tribunal then considered the determination of the 2022 Tribunal, including what it said would assist a future Tribunal at a review hearing. The Tribunal considered whether, as raised by the 2022 Tribunal, Dr Singh had demonstrated that he had reflected further and gained sufficient insight into his actions.

27. In considering the issue of insight, the Tribunal was of the view that there was no evidence before it to suggest that Dr Singh had developed any additional insight into his misconduct since the 2022 Tribunal or that he had addressed the concerns of the 2022 Tribunal in any way. Further, the Tribunal noted that Dr Singh has not provided any evidence of remediation or CPD that he has undertaken since that time, either to address the identified failures, or to demonstrate his knowledge and skills are up to date. The Tribunal noted that Dr Singh had not engaged or communicated with the GMC directly since the order of conditions was imposed.

28. Accordingly, the Tribunal could not be satisfied that Dr Singh has developed sufficient insight into his actions to mitigate the risk of repetition. Until further insight had been developed and remediation demonstrated, and given the lack of engagement, the Tribunal was of the view that the risk of repetition is high.

29. The Tribunal noted that it has been suggested on Dr Singh's behalf that XXX since July 2022. However, apart from a XXX, the Tribunal noted that no other specific evidence has been provided to XXX. Further, it noted that the GMC has offered numerous chances for Dr Singh to submit specific evidence of XXX, or to comply with the requirements of the order of conditions. In light of the lack of supporting evidence, the Tribunal attached little weight to XXX being an adequate reason for preventing Dr Singh from complying with the order of conditions imposed by the 2022 Tribunal.

30. In considering whether Dr Singh's fitness to practise is currently impaired, the Tribunal balanced his lack of insight and the assessed risk of repetition against the overarching objective. The Tribunal was mindful that there is an onus on Dr Singh at a review hearing to demonstrate that he has sufficiently addressed the concerns in the case, which it considered he had not yet done.

31. This Tribunal has therefore determined that Dr Singh's fitness to practise is currently impaired by reason of misconduct.

#### **Determination on Sanction - 27/10/2023**

32. Having determined that Dr Singh's fitness to practise is currently impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to his registration.

#### **Submissions**

33. On behalf of the GMC, Ms Tollitt submitted that the appropriate sanction in this case is one of suspension. She referred the Tribunal to the Sanctions Guidance (November 2020) ('the SG') and its own determination on impairment throughout her submissions.

34. Ms Tollitt submitted that to take no action would not be appropriate as there were no exceptional circumstances in this case. Further, she submitted that conditions were no longer appropriate in this case. She submitted that the circumstances of the 2022 Tribunal were no longer present, as Dr Singh had attended the previous hearing with a legal representative and gave oral evidence before the 2022 Tribunal.



35. Ms Tollitt reminded the Tribunal that the conditions imposed on Dr Singh's registration had not been complied with and he has not engaged with the Tribunal directly since 2022, or at all since August 2023. She submitted that the reasons for his non-compliance and lack of engagement are not at all clear and have been vague and limited in detail. She submitted that there has been no evidence of training of courses undertaken to improve his record keeping or accuracy, nor has he submitted any personal reflection. Ms Tollitt submitted that Dr Singh has been given the opportunity to address those deficiencies and to comply with specific conditions imposed to assist him in doing so but has not engaged and steps which ought to have been undertaken, notably the Performance Assessment, have not been done.

36. Ms Tollitt submitted that, in the absence of any further information or XXX, despite multiple requests from the GMC, it is open to this Tribunal to conclude that Dr Singh's non-compliance and lack of engagement with the process has been wilful. In all the circumstances, Ms Tollitt submitted that a period of suspension was now the appropriate and proportionate sanction in this case.

### **The Tribunal's Determination**

37. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Singh's registration is a matter for this Tribunal alone, exercising its independent judgement. In reaching its decision, the Tribunal has taken account of the SG.

38. The Tribunal took into account its decision on impairment, the submissions of the GMC and the documentary evidence adduced during this review hearing.

39. The Tribunal recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The Tribunal must impose a sanction if it is required in order to protect patients, maintain public confidence in the profession, and/or meet the wider public interest. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Singh's interests with the public interest.

40. The Tribunal first identified what it considered to be the mitigating and aggravating factors in this case.

41. The Tribunal considered the fact that Dr Singh has not practised in a long period of time. He has submitted no evidence to demonstrate that he has maintained his knowledge and skills in that time.

42. The Tribunal further noted another aggravating factor was Dr Singh's failure to engage in any way since the 2022 Tribunal imposed the order. He has also failed to comply with the conditions imposed, as he has not completed a Performance Assessment or submitted a PDP, as required of him. The purpose of the Performance Assessment is to assess Dr Singh's clinical skills and competence now. Without such an assessment, and having been out of clinical practise for a lengthy period, no risk assessment is possible. Although, clinical concerns were not part of the original misconduct, against a background of absence from clinical practice, lack of ongoing training and lack of compliance with regulatory processes, this raises concerns.

43. The Tribunal could identify no relevant mitigating factors in this case.

44. The Tribunal acknowledged that XXX had been raised by Dr Singh's former representatives as a reason for his failure to comply. The Tribunal attached limited weight to this, as no objective, measurable evidence has been provided, despite repeated requests from the GMC and opportunities over some 20 months, to support this.

45. In deciding what sanction, if any, to direct, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which sanction is appropriate and proportionate.

#### No action

46. The Tribunal first considered whether to conclude the case by taking no action. It noted that to take no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances such as where protection of the public cannot be justified.

47. The Tribunal was satisfied that there were no exceptional circumstances in Dr Singh's case which could justify it taking no action. It determined that, given the Tribunal's findings in respect of impairment, to take no action, would not be sufficient, proportionate nor in the public interest.

Conditions

48. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Singh's registration. It had regard to paragraphs 81, 82, 84 and 85 of the SG, which state:

**'81** *Conditions might be most appropriate in cases:*

*a ...*

*b ...*

*c where there is evidence of shortcomings in a specific area or areas of the doctor's practice*

*d ...*

**82** *Conditions are likely to be workable where:*

*a the doctor has insight*

*b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*

*c the tribunal is satisfied the doctor will comply with them*

*d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.*

...

**84** *Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:*

*a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage*

*b identifiable areas of their practice are in need of assessment or retraining*

*c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety*

...

*d willing to be open and honest with patients if things go wrong...*

*e ...*

**85** *Conditions should be appropriate, proportionate, workable and measurable.'*

49. The Tribunal noted that this was a case where conditions were deemed appropriate previously. However, it considered that the conditions imposed have so far been ineffective. The Tribunal considered that Dr Singh has failed to comply with the conditions requiring him to submit a PDP and undergo a Performance Assessment. The Tribunal could see no good reason for Dr Singh not to have complied with these conditions, given he has provided no objective evidence of XXX, which would justify his failure to comply.

50. The Tribunal noted that conditions may be workable where a doctor has insight into their misconduct, is likely to comply with conditions, and where a doctor is likely to respond positively to remediation or retraining. The Tribunal considered that none of these apply in Dr Singh's case.

51. The Tribunal therefore concluded that conditions were no longer sufficient to maintain public confidence in the profession or to promote and maintain standards for members of the profession.

### Suspension

52. In considering whether to impose a period of suspension on Dr Singh's registration, the Tribunal had regard to paragraphs 91, 92, 93, and 97(a), (e), (f) and (g) of the SG which provide:

*'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*

*92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*

*93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*

...

*97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

*a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any*

*sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

...

*e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*

*f No evidence of repetition of similar behaviour since incident.*

*g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'*

53. The Tribunal carefully considered the factors at paragraph 97 of the SG but was not satisfied that Dr Singh's case fell into these.

54. The 2022 Tribunal was of the view that Dr Singh had breached a number of paragraphs of GMP, including paragraphs 65, 66 and 71, and that his conduct breached a fundamental tenet of the profession. This Tribunal was satisfied that the identified breaches represented a significant departure from GMP.

55. The Tribunal had regard to the lack of evidence of remediation in this case as well as its assessment of the risk of repetition. The Tribunal noted that the SG indicated that an absence of evidence of remediation indicated that suspension may not be appropriate. There was no basis or evidence upon which the Tribunal could place any reliance that Dr Singh would be prepared to engage in remediation or that any such engagement would be successful.

56. The Tribunal was also conscious that there appeared to be wilful non-engagement in this case, such that Dr Singh was aware of the requirements of his conditions and has chosen to disengage with the GMC. It noted that there has been no direct communication between Dr Singh and the GMC since the 2022 Tribunal.

57. The Tribunal took into consideration that Dr Singh showed a reckless disregard for the regulatory system, and the safeguard it imposes to ensure that all doctors registered in the

UK are safe and fit to practise. His actions circumvented those processes which exist to protect the public and the profession and had the potential to cause harm to patients. The Tribunal had regard to the complete lack of evidence to demonstrate that Dr Singh has done anything to address those concerns in the 20 months since the 2022 Tribunal.

58. The Tribunal concluded that the seriousness of the underlying conduct and the blatant disregard for the regulatory process breached fundamental tenets of the profession. This coupled with Dr Singh persistent lack of insight, the absence of evidence of remediation, and the assessed risk of repetition led the Tribunal to conclude that a sanction of suspension would be inappropriate.

#### Erasure

59. The Tribunal therefore went on to consider whether the sanction of erasure was appropriate and proportionate.

60. The Tribunal had regard to paragraphs 108 and 109 (a), (b), (f) and (j) of the SG and considered they were particularly relevant in Dr Singh's case:

**'108** *Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

**109** *Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

*a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.*

*b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.*

...

*j Persistent lack of insight into the seriousness of their actions or the consequences.'*

61. The Tribunal was conscious that the 2022 Tribunal had been satisfied that an order of conditions was sufficient to uphold the statutory overarching objective in this case. The Tribunal considered that the circumstances of the 2022 Tribunal were significantly different. It noted that Dr Singh has completely disengaged with the GMC and MPTS since the 2022 Tribunal and has failed to comply with all the conditions imposed. The Tribunal determined that Dr Singh's failure to engage and failure to comply with conditions was evidence of lack of remediation and insight; demonstrated that Dr Singh did not appreciate the gravity of his initial misconduct and could not gain insight or remediate.

62. The Tribunal considered that a sanction of erasure was now the only sanction that would mark Dr Singh's continued reckless disregard for the safeguards of the regulatory process and address his persistent lack of insight. The Tribunal was satisfied that Dr Singh's complete disengagement from the GMC and failure to comply with the conditions imposed on his registration was fundamentally incompatible with continued registration. It was satisfied, in those circumstances, that erasure was the only sanction that would be sufficient to uphold the statutory overarching objective, to maintain public confidence in the profession, the regulator and the regulatory process, and uphold proper professional standards.

63. The Tribunal has directed to erase Dr Singh's name from the Medical Register.

#### **Determination on Immediate Order - 27/10/2023**

64. Having determined that Dr Singh's name should be erased from the medical register, the Tribunal has considered, in accordance with Section 38(1) of the Medical Act (1983), whether his registration should be subject to an immediate order of suspension.

#### **Submissions**



65. Due to the lateness of the hour, Ms Tollitt was unable to seek instructions make positive submissions to the Tribunal. With advice from a member of GMC Legal, she directed the Tribunal to review the relevant paragraphs of the SG but was unable to give specific submissions.

### The Tribunal's Determination

66. In reaching its decision, the Tribunal considered the relevant paragraphs of the SG and exercised its own independent judgement. In particular, it took account of paragraphs 172, and 178, which state:

*'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*

...

*178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'*

67. The Tribunal determined that, for all the reasons it has already set out in making its determination on sanction, it is in the public interest to make an order suspending Dr Singh's registration with immediate effect, to protect the public, uphold and maintain professional standards and maintain public confidence in the profession.

68. This means that Dr Singh's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

69. The order of conditions currently imposed on Dr Singh's registration will remain in effect until notice has deemed to have been served, after which, the immediate order suspending Dr Singh's registration will take effect.

70. That concludes this case.

**ANNEX A – 27/10/2023**

**Service and Proceeding in Absence**

71. Dr Singh was neither present nor legally represented at this hearing. The Tribunal noted that in order to proceed with the hearing in Dr Singh's absence, it needed to be satisfied that he had been properly served with notice of the hearing and that it was appropriate for the hearing to proceed in his absence.

72. The Tribunal was provided with a copy of a Service Bundle from the General Medical Council (GMC). The Service Bundle indicates that on 10 July 2023 at 9:32pm, the GMC sent a letter by email to Dr Singh via his legal representative, advising the date of his upcoming review hearing due to take place on Friday 18 August 2023, and enclosed a copy of the bundle. The Tribunal also noted that, on 12 July 2023 at 12:10pm, the MPTS sent Dr Singh a Notice of Hearing letter by email, copying in his legal representative. A second email was sent on 19 July 2023 at 1:39pm. Dr Singh's legal representative responded to the email on 19 July 2023 at 2:06 pm, confirming safe receipt. On 17 August 2023 at 3:07pm, the GMC received an email from Dr Singh's representative informing them that they were no longer instructed to act on Dr Singh's behalf in this matter.

73. At an MPTS Hearing that commenced on 18 August 2023, the Tribunal determined not to proceed in Dr Singh's absence, to allow him the opportunity to seek new representation or to prepare to represent himself. The hearing was subsequently relisted to commence at 9:00am on Friday 27 October 2023.

74. The GMC sent a letter by email to Dr Singh on 28 September 2023, confirming that the hearing had been relisted. No response was received to this email. A letter was also sent by post to Dr Singh's registered address on 6 October 2023, and was confirmed to have been delivered on 9 October 2023. The GMC sent a further email to Dr Singh on 10 October 2023 at 10:28am, enquiring if Dr Singh intended to attend the hearing, and if he had any documentation to submit for the Tribunal to consider. No response was received to this email. The GMC also attempted to call Dr Singh by telephone on 10 October but received no response.

75. The Tribunal also noted that, on 21 September 2023 at 12:34pm, the MPTS sent Dr Singh a Notice of Hearing letter by email, confirming that his review hearing would

commence on 27 October 2023 for one day, and that the hearing would be held virtually. The MPTS email also requested confirmation from Dr Singh as to whether he would be attending and provided information as to the support available in relation to the hearing. No response was received, and the letter was sent by post on 26 September 2023 which was successfully delivered on 27 September 2023.

### **GMC's Submissions**

76. On behalf of the GMC, Ms Tollitt took the Tribunal through the service bundle and highlighted that the Notice of Hearing had been sent to Dr Singh by electronic mail to his registered email address and subsequently to his registered address by post. She invited the Tribunal to conclude that service had been effected in accordance with the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules').

77. Ms Tollitt invited the Tribunal to consider Rule 31 of the Rules which provides that where a practitioner was neither present nor represented, the Tribunal may nevertheless proceed to consider and determine the allegation if it is satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with the Rules. She submitted that all reasonable efforts have been made to serve the documents in accordance with the Rules and the hearing should proceed in the absence of Dr Singh.

### **Tribunal's Determination**

#### Service

78. The Tribunal had regard to Rule 40(2) of the Rules which provides that a notice or document required to be served under the Rules may be served by ordinary post or by electronic mail to an electronic mail address that the practitioner had notified to the Registrar as an address for communications. Rule 40(4) provides that service of any notice or document under the Rules may be provided by a number of methods including a confirmation of receipt of the notice or document sent by electronic mail.

79. In light of the evidence of emails containing the Notice of Allegation and the Notice of Hearing being served by email and post to Dr Singh, the Tribunal was satisfied that Dr Singh had been properly served with the Notice of Hearing in accordance with Rules 15 and 40 of the Rules.

#### Proceeding in Dr Singh's Absence

80. In making its determination the Tribunal noted that the decision as to whether or not the hearing should proceed in Dr Singh's absence was a matter for its discretion and that such discretion was to be exercised with great care and caution.

81. The Tribunal had regard to the legal authority of *R v Hayward, Jones & Purvis* [2001] QB 862 CA, which states that a defendant has a right to be present at a trial and a right to be legally represented but that those rights can be waived where a defendant voluntarily absents themselves from a trial and/or withdraws instructions from those representing them. The Tribunal also had regard to the case of *General Medical Council v Adeogba* [2016] EWCA Civ 162.

82. The Tribunal noted that Dr Singh had not responded to any of the correspondence sent to him. The Tribunal also noted that this was a virtual hearing and therefore any concerns regarding Dr Singh's ability to attend the hearing and the cost thereof have been mitigated. In light of the information before it, the Tribunal was satisfied that Dr Singh had voluntarily absented himself from this hearing.

83. The Tribunal considered whether an adjournment would result in Dr Singh attending the hearing. Setting aside that there had been no application for an adjournment, there was no evidence before the Tribunal that an adjournment would result in Dr Singh attending. The Tribunal also considered that the hearing was previously adjourned in August 2023 to allow Dr Singh additional time to prepare, and that there had been no engagement since that hearing. The Tribunal formed that view that Dr Singh had made it clear in his lack of correspondence with the GMC and MPTS that he did not intend to participate.

84. The Tribunal noted that any decision to proceed in Dr Singh's absence would result in prejudice to him including that it may not necessarily have all of the information which Dr Singh would wish to present. However, the Tribunal considered that any such prejudice must be balanced against other factors including the statutory overarching objective and the public interest. The Tribunal noted that the public interest included ensuring that a hearing should take place within a reasonable time of the events to which it related and the need for a fair economic, expeditious and efficient disposal of the hearing. These matters should be balanced against any prejudice to Dr Singh.

85. The Tribunal noted that part of its role was to ensure a fair hearing notwithstanding Dr Singh's absence. The Tribunal observed that all reasonable efforts had been made to inform Dr Singh of today's hearing. The Tribunal also noted that no application has been made to adjourn and there was no evidence to indicate that a further adjournment would result in his attendance. The Tribunal balanced these facts against the statutory overarching objective, the fair, economic, expeditious and efficient disposal of the proceedings and the public interest.

86. The Tribunal considered that, while Dr Singh's input would be beneficial to it when considering the case, the fact that the Tribunal would not have this to hand did not outweigh all of the identified factors in proceeding in his absence. Having considered each of the relevant factors, the Tribunal determined that the balance of all of the relevant factors fell in favour of proceeding with the hearing in Dr Singh's absence.