

PUBLIC RECORD

Date: 16/07/2024

Medical Practitioner's name: Dr Umasankar MATHURAM THIYAGARAJAN
GMC reference number: 6113983
Primary medical qualification: MB BS 1998 Tamil Nadu Dr MGR Med University

Type of case **Outcome on impairment**
Review - Misconduct Not Impaired

Summary of outcome
Suspension revoked

Tribunal:

Legally Qualified Chair	Miss Debi Gould
Medical Tribunal Member	Dr Shehleen Khan
Medical Tribunal Member	Dr Sarah Jeffery
Tribunal Clerk:	Mr Andrew Ormsby

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Scott Ivill, Counsel, instructed by Weightmans LLP
GMC Representative:	Ms Louise Cowen, 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 - 16/07/2024

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 Mathuram Thiyagarajan's fitness to practise is impaired by reason of misconduct.

Background

2. Dr Mathuram Thiyagarajan qualified in 1998 in India and prior to the events which are the subject of the hearing Dr Mathuram Thiyagarajan undertook post graduate studies in General Surgery in India, before moving to the UK in 2005. He completed higher surgical training at the London Deanery in 2019. He joined Cambridge University Hospital NHS Foundation Trust ('the Trust') in October 2019 as a Clinical Fellow in Hepato-Pancreato-Biliary surgery.

3. At the time of the events Dr Mathuram Thiyagarajan was practising in both his role at the Trust, and undertaking NHS locum shifts as a clinical fellow in surgery at Medway NHS Foundation Trust ('Medway').

4. The facts admitted and found proved at Dr Mathuram Thiyagarajan's hearing which took place between 27 November and 8 December 2023 ('the 2023 Tribunal') can be summarised as that between 1 December 2020 and 31 January 2021, Dr Mathuram Thiyagarajan was working in both his role at the Trust, and undertaking NHS locum shifts as a clinical fellow in surgery at Medway NHS Foundation Trust ('Medway').

5. Dr Mathuram Thiyagarajan had advance booked annual leave for 22 December 2020 to 31 December 2020, with him due to return to work at the Trust on 4 January 2021, following a bank holiday and weekend. He had arranged to undertake some shifts at Medway

during this period of annual leave, as he was entitled to do. On 14 December 2020, Dr Mathuram Thiyagarajan tested positive for COVID-19. He contacted the Trust to request to change his annual leave to sick leave. The Trust subsequently classified the entire period as sick leave.

6. On 3 January 2021, Dr Mathuram Thiyagarajan emailed the Trust, telling his employers that he was ‘making a slow recovery’ from COVID-19, that XXX had tested positive the previous week, and that he felt too unwell to work for the remainder of the week.

7. Following Dr Mathuram Thiyagarajan’s positive test result, XXX tested positive for COVID-19 and Dr Mathuram Thiyagarajan undertook shifts at Medway between 1-3 January 2021 when he should have been isolating in accordance with government issued COVID-19 guidance. Further to this, Dr Mathuram Thiyagarajan undertook shifts at Medway on 23 and 24 January 2021 when he should have been isolating as a person with whom he was sharing hospital accommodation had tested positive for COVID-19 on or around 19 January 2021. It was found that, on the two occasions he worked at Medway when he should have been isolating, Dr Mathuram Thiyagarajan put patients and staff at Medway at potential risk of being infected with COVID-19.

8. The initial concerns were raised with the GMC as part of an NHS Counter Fraud Authority investigation that was investigating whether Dr Mathuram Thiyagarajan had worked shifts at Medway while off sick from the Trust, however, this was not found to be the case.

The 2023 Tribunal

9. The 2023 Tribunal concluded that Dr Mathuram Thiyagarajan had attended work on two occasions despite having been advised to isolate and not attend. It therefore concluded that his conduct fell so far short of the standards reasonably to be expected of a doctor as to amount to serious misconduct.

10. The 2023 Tribunal was of the view that Dr Mathuram Thiyagarajan had shown limited insight into the potential impact his actions could have had on the patients and staff he put at risk. It found that Dr Mathuram Thiyagarajan had not yet recognised that he used his own medical interpretation of the guidance to rationalise ignoring the legal requirement to isolate.

11. The 2023 Tribunal was satisfied that Dr Mathuram Thiyagarajan would not ignore COVID-19 guidelines in this way in the future. However, it could not be satisfied that, without an attitudinal shift, Dr Mathuram Thiyagarajan would obey guidelines for other diseases or situations. This, coupled with his limited insight, meant the 2023 Tribunal was unable to conclude that the risk of repetition was low.

12. The 2023 Tribunal further considered that Dr Mathuram Thiyagarajan's actions would damage public confidence in the profession if a finding of impairment were not made. The 2023 Tribunal was satisfied that a member of the public in full knowledge of the facts of the case would be concerned about a doctor acting in the way Dr Mathuram Thiyagarajan did. The 2023 Tribunal was also of the view that given its findings of fact and serious misconduct, a finding of impairment of fitness to practise was necessary to promote and maintain proper standards of conduct for the medical profession. The 2023 Tribunal therefore determined that Dr Mathuram Thiyagarajan's fitness to practise was impaired by reason of misconduct.

13. The 2023 Tribunal had regard to Dr Mathuram Thiyagarajan's actions, and considered that while his misconduct was serious, it was remediable. However, it could not ignore that there was a potential for serious harm to patients, as well as failure to act as an appropriate role model for junior colleagues.

14. The 2023 Tribunal determined that an order of suspension was required and determined to suspend Dr Mathuram Thiyagarajan's registration for a period of six months.

15. Overall, the 2023 Tribunal decided that the case was not one where Dr Mathuram Thiyagarajan's misconduct was 'fundamentally incompatible with continued registration' and therefore it considered that erasure would not be appropriate or proportionate, nor would it be in the public interest as erasure would deny the public of an otherwise competent and well-regarded doctor.

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

- Evidence of any courses and other activities he has undertaken in order to demonstrate his remediation;
- Evidence that he has gained genuine insight, such as reflections and discussions with colleagues on the nature of his misconduct;
- Evidence that he has kept his knowledge and skills up to date, including any CPD; and

- Any other information that he considered would assist.

The Evidence

17. The Tribunal has taken into account all the evidence received. Dr Thiyagarajan did not call or give any oral evidence, however he submitted, and the Tribunal has taken into account, all documentary evidence.

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

- The determinations of the 2023 Tribunal;
- A detailed reflective statement;
- Two testimonials provided on behalf of Dr Mathuram Thiyagarajan
- Continuous Professional Development certificates (Ethics Course 2024, Probity and Ethics Course 2023).

Submissions

Submissions on behalf of the GMC

19. Ms Cowen submitted that the GMC had adopted a neutral stance in relation to the question of whether Dr Mathuram Thiyagarajan's fitness to practise remained impaired.

20. Ms Cowen submitted that the GMC wished to reiterate that there was a persuasive burden upon Dr Mathuram Thiyagarajan to show that his fitness to practise was no longer impaired. She stated that the doctor should demonstrate that he had fully acknowledged his previous misconduct through insight, education and supervision.

Submissions on behalf of Dr Mathuram Thiyagarajan

21. Mr Ivill submitted that Dr Mathuram Thiyagarajan's fitness to practise was no longer impaired and invited the Tribunal to revoke his suspension.

22. Mr Ivill reminded the Tribunal that the 2023 Tribunal had determined that Dr Mathuram Thiyagarajan's impairment was remediable. He stated that the doctor had significantly reflected during his period of suspension and had produced written reflections

to demonstrate a deeper understanding of the extent of his misconduct and its impact on patients and colleagues.

23. Mr Ivill submitted that Dr Mathuram Thiyagarajan had found the process of being suspended from the Medical Register to be challenging, but had responded positively to that challenge, using the time constructively to develop his insight and to remediate.

24. Mr Ivill submitted that Dr Mathuram Thiyagarajan's written reflections were a credible account of his attitudinal shift. He stated that the doctor had attended courses on medical ethics, amongst others, to reinforce the legal and ethical obligations of a medical practitioner.

25. Further, Mr Ivill stated that Dr Mathuram Thiyagarajan had shadowed a clinical attachment, which not only assisted the doctor in keeping his knowledge up-to-date, but also afforded him the opportunity to discuss matters with colleagues as to the nature of his misconduct.

26. Mr Ivill invited the Tribunal to find that the risk of repetition was now low, and suggested that it might think that it was noteworthy that the regulator did not itself submit that Dr Mathuram Thiyagarajan's fitness to practise was currently impaired.

27. Mr Ivill concluded by inviting the Tribunal to revoke Dr Mathuram Thiyagarajan's suspension with immediate effect.

The Relevant Legal Principles

28. 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.

29. This Tribunal must determine whether Dr Mathuram Thiyagarajan's fitness to practise is impaired today, taking into account Dr Mathuram Thiyagarajan'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.

The Tribunal's Determination on Impairment

30. The Tribunal acknowledged that the previous 2023 Tribunal had not considered that Dr Mathuram Thiyagarajan's misconduct was incompatible with continued registration but rather had stated that it was remediable.

31. The Tribunal also noted the findings of the 2023 Tribunal and its suggestion as to the evidence that Dr Mathuram Thiyagarajan might provide at this review hearing.

32. The Tribunal acknowledged that Dr Mathuram Thiyagarajan had adduced evidence of significant remediation.

33. It noted that Dr Mathuram Thiyagarajan had provided lengthy reflections which focused on the impact that his misconduct had on patients and colleagues.

34. The Tribunal also acknowledged that Dr Mathuram Thiyagarajan had provided evidence of sufficient CPD and noted the supportive accounts provided by his mentors.

35. The Tribunal bore in mind that Dr Mathuram Thiyagarajan had been of previous good character.

36. It also noted that Dr Mathuram Thiyagarajan had fully engaged with the regulatory process and had provided all that the 2023 Tribunal had suggested would be required by a reviewing Tribunal.

37. In the circumstances, given Dr Mathuram Thiyagarajan's full engagement with regulatory process and his provision of substantial evidence of remediation, substantial evidence of insight and significant CPD, the Tribunal considered that the risk of repetition was negligible.

38. Furthermore, the Tribunal considered that the short period of suspension imposed by the previous 2023 Tribunal was unlikely to have affected the doctor's clinical skills.

39. The Tribunal concluded that there was no public interest in preventing Dr Mathuram Thiyagarajan from returning to work.

40. Accordingly, the Tribunal has therefore determined that Dr Mathuram Thiyagarajan's fitness to practise is not impaired by reason of misconduct.
41. The Tribunal further determined to revoke the order of suspension currently imposed on Dr Mathuram Thiyagarajan's registration with immediate effect.
42. That concludes this case.