

Date: 10/07/2018

Medical Practitioner's name: Dr Chandrashekara MORIGERI

GMC reference number: 7057852

Primary medical qualification: MB BS 1997 Karnatak

Type of case

Review - Conviction / Caution

Outcome on impairment

Not Impaired

Summary of outcome

Suspension to expire

Tribunal:

Legally Qualified Chair	Mr Jonathan James
Lay Tribunal Member:	Ms Lisa Smith
Medical Tribunal Member:	Dr John Garner

Tribunal Clerk:	Mrs Sam Montgomery
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Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner's Representative:	NA
GMC Representative:	Mr Robert Dudley , 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.

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Determination on Impairment - 10/07/2018

Hearing in Private

1. At the outset of the hearing, the Tribunal agreed, in accordance with Rule 41XXX of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 (the "Rules"), that the press and public be excluded from those parts of the hearing where matters under consideration were deemed confidential. However, as this case involves Dr Morigeri's conviction, a redacted version will be published at the close of the hearing with confidential matters having been removed.

Background

2. Dr Morigeri's case was first considered by a Fitness to Practise Tribunal in February/March 2018 (the March Tribunal). This Tribunal has noted the background of the case which relates to Dr Morigeri's conviction for assault, involving three separate incidents:

- On 12 March 2017 Dr Morigeri had an argument with Ms A XXX which resulted in him hitting her twice with a mobile phone. She suffered a 'big lump' on her forehead.
- On 7 July 2017 another argument XXX resulted in Dr Morigeri taking Ms A's glasses off in a reckless manner, which may have caused a scratch to her nose.
- On 18 August 2017 Dr Morigeri was engaged in a further argument with Ms A during which he hit her on the arm, on two or three occasions, with an iPad. This caused bruising and scratching to her arm and a scratch to her right elbow. The memorandum of conviction states 'Aggravated XXX assault XXX use of IPAD as a weapon, causing bruising'.

3. Dr Morigeri was convicted at Hendon Magistrates court, following his guilty pleas and basis of plea accepted by the court on 5 September 2017. On 18 September 2017 Dr Morigeri was sentenced to:

- a 12 week prison term, suspended for 12 months;
- made the subject of a restraining order in relation to Ms A until 17 September 2020; and
- ordered to participate in an accredited programme for 40 days.

4. The March Tribunal considered that Dr Morigeri's conviction for repeated assaults XXX was deplorable. Further, it considered that the offences committed would seriously impact upon the public's confidence in the medical profession and

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the maintaining of professional standards and conduct for members of the profession. In the circumstances, the March Tribunal considered that a finding of impairment was necessary in order to uphold the overarching objective. It determined that Dr Morigeri's behaviour leading to his conviction fell so far below the standards expected by the public that it would undermine public confidence in the medical profession if a finding of impairment were not made.

5. The March Tribunal also determined to suspend Dr Morigeri's registration for a period of four months, which it considered would address the seriousness of the conviction, whilst also allowing Dr Morigeri to complete the 40 day XXX Accredited Programme (the XXX Programme). It considered that until Dr Morigeri had satisfactorily completed the XXX Programme he should not be able to resume practice.

6. The March Tribunal also directed that a review should take place. Dr Morigeri was advised that the review Tribunal would be assisted by receiving the following:

- Evidence of his attendance at the XXX Programme including evidence of the progress he has made whilst on the programme (or an update on these matters if for some reason the review takes place before the programme has been satisfactorily completed);
- Evidence that his suspended sentence and restraining order have not been breached;
- Evidence that Dr Morigeri has kept his clinical knowledge and skills up to date;
- Any other relevant evidence Dr Morigeri wishes to present to assist the Tribunal, for example, evidence of continuing professional development.

Today's Review Hearing

7. This Tribunal has today reviewed Dr Morigeri's case and has considered, in accordance with Rule 22(f) of the Rules, whether his fitness to practise is impaired. In so doing it has considered the submissions made by Mr Dudley, Counsel, on behalf of the GMC and those made by Dr Morigeri.

Evidence

8. Dr Morigeri gave oral evidence to the Tribunal. He told the Tribunal that he completed the XXX programme on 28 June 2018 and that it was a three and a half month course, requiring attendance twice weekly. He explained the course content involving 24 group sessions plus four one-to-one meetings. He told the Tribunal that the course focused on aggressive behaviour and trigger events. He explained that he realised that his aggression was as a result of a build-up of stress XXX. He said that

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the stress he experienced arose XXX not from his work. He said that he has learnt to be more aware of his emotional state, to take time-out and to consider boundaries. XXX

9. Dr Morigeri explained that XXX he wishes to focus on the GMC procedures. He also stated that he has not breached the suspended sentence or restraining order.

10. Dr Morigeri told the Tribunal that he was dismissed from his paediatric registrar post at London North West hospital NHS Trust (the Trust) as a result of the MPT Tribunal's decision to suspend him because he was unable to perform his duties as a clinician. He has not been working since. He has kept his clinical skills up-to-date by reading relevant medical books. He explained that, if he were permitted to return to work, he would work towards a consultant position in the UK. Dr Morigeri also told the Tribunal that a consultant at his former employer had made contact to say that they would be willing to re-employ him.

11. The Tribunal had regard to the email from the Trust, dated 4 May 2018, confirming that Dr Morigeri's contract was terminated as a direct result of the March Tribunal's decision to suspend him as he could not fulfil the contract of his employment.

12. The Tribunal also noted the email from the London Community Rehabilitation Company, dated 5 July 2018, confirming that Dr Morigeri completed the XXX Programme satisfactorily on 28 June 2018.

Submissions

13. Mr Dudley acknowledged that Dr Morigeri has now completed the XXX programme but he submitted that Dr Morigeri has failed to provide any of the other evidence requested by the previous Tribunal. Mr Dudley reminded the Tribunal that Dr Morigeri remains subject to the suspended sentence until 17 September 2017 and the restraining order until 17 September 2020.

14. Mr Dudley referred to the case of *The Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann)* [2005] EWHC 87 (Admin) which states that:

'...as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practise until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise...The rationale for the principle is not that it can serve to punish the practitioner whilst serving his sentence, but that good standing in a profession must be earned if the reputation of the profession is to be maintained.'

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15. Mr Dudley submitted that as such Dr Morigeri's fitness to practise remains impaired.

16. Dr Morigeri submitted that his fitness to practise is not impaired. He submitted that he has not breached his sentencing guidelines or restraining order. He has used the opportunity to seek assistance in relation to the matters for which he was convicted and has kept his medical knowledge and skills up-to-date.

Tribunal's Decision

17. The Tribunal has borne in mind of its overarching objective which is 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 the medical profession.

18. The Tribunal is aware that the onus is on Dr Morigeri to provide evidence to demonstrate that previous concerns have been addressed and that he is fit to practise.

19. The Tribunal took account of Dr Morigeri's oral evidence today which demonstrates the steps he has taken to address and understand his previous behaviour which led to his conviction. It notes that he has now fulfilled the positive obligation to complete the 40 day XXX Programme, as required as part of his sentencing.

20. The Tribunal notes that there are no clinical concerns relating to Dr Morigeri's practice. It accepts that he has taken some steps to maintain his clinical skills and knowledge by undertaking relevant reading in his chosen specialty of paediatrics. Whilst he has not undertaken any further steps in this regard the Tribunal is satisfied that a four month period of suspension is very unlikely to result in de-skilling to any significant extent, if at all.

21. The Tribunal is aware that the March Tribunal imposed an order for a period of four months in order to signal the seriousness with which it viewed Dr Morigeri's conviction and to allow him to undertake the XXX Programme. That Tribunal also considered that, until Dr Morigeri had satisfactorily completed the XXX Programme, he should not be able to resume practice.

22. This Tribunal is satisfied that Dr Morigeri has met the recommendations of the March Tribunal and that he has adequately remediated. It considers that Dr Morigeri has learnt a salutary lesson from this experience and it is highly unlikely that there will be any repetition. Whilst Dr Morigeri did not provide written evidence, it accepted his oral evidence that he has not breached the suspended sentence or restraining order.

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23. The Tribunal considered the case of Fleischmann brought to its attention by Mr Dudley. However, it considers that there is a qualitative difference as that until the conclusion of a three year period, the practitioner was still under an obligation to carry out specified rehabilitation whereas Dr Morigeri has now fulfilled the obligation placed upon him by the Court, to undertake the XXX Programme.

24. In all the circumstances the Tribunal has determined that Dr Morigeri's fitness to practise is no longer impaired. The Tribunal is satisfied that the period of suspension imposed was sufficient to address the seriousness of Dr Morigeri's conviction and maintain public confidence in the medical profession.

25. The current period of suspension expires on 15 August 2018, after which Dr Morigeri will be able to return to medical practice.

Confirmed

Date 10 July 2018

Mr Jonathan James, Chair