

RAM PRATAP SAXENA

Appellant

v.

THE GENERAL MEDICAL COUNCIL

Respondent

FROM

THE PROFESSIONAL CONDUCT COMMITTEE OF THE  
GENERAL MEDICAL COUNCIL

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ORAL JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE 16TH NOVEMBER 1983

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*Present at the Hearing:*

LORD SCARMAN

LORD BRIDGE OF HARWICH

LORD BRIGHTMAN

*[Delivered by Lord Scarman]*

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This is an appeal by Dr. Ram Pratap Saxena from a direction of the Professional Conduct Committee of the General Medical Council, that by reason of the proof of conviction for criminal offences his registration as a doctor be suspended for 12 months'.

The Professional Conduct Committee held an inquiry on the 22nd July 1983. The charge into which they were inquiring was in these terms, that on the 21st December 1982, at Cardiff Crown Court, Dr. Saxena was convicted on six charges of obtaining property by means of deception and was sentenced to twelve months' imprisonment on each charge, nine months' of which was suspended, and each sentence was to run concurrently. It is to be observed that the offences of which he was convicted were offences of dishonesty.

Dr. Saxena was represented by counsel at the inquiry of the Professional Conduct Committee and at the outset of that inquiry Dr. Saxena's counsel was asked by the Chairman of the Committee whether the convictions were admitted - to which counsel replied that they were. The Chairman then announced that the Committee found the convictions in question to be proved.

Dr. Saxena does not, as their Lordships understand his case, challenge the fact that after a long trial before a Judge and jury he was convicted. Further he does not challenge that an attempt to appeal against the convictions failed and

therefore in law the convictions stand. His case is that the convictions were wrong and unjust, and that upon a proper consideration of the matter he had in no way acted unlawfully.

The Board observes in passing that this was not the line taken by counsel for Dr. Saxena before the Professional Conduct Committee. There his counsel put forward very eloquently the case upon which the doctor also relies before the Board, that he was an excellent doctor dedicated to the interests of his patients in an area of severe unemployment and deprivation in Wales, and that his patients have stood by him. There was before the Professional Conduct Committee, and there is before the Board, a petition signed by more than 2,000 patients to the effect that he was a good doctor and that they wished him to continue in practice in their district.

All these matters, other than the challenge to the convictions themselves, were fully developed by counsel on behalf of the doctor at the hearing before the Professional Conduct Committee. At the end of the hearing the Committee, as is its wont, merely announced its decision but gave no reasons. Its decision was that the doctor, by reason of the convictions which had been proved against him, should be subject to a direction that his registration as a medical practitioner be suspended for a period of twelve months. It is against that suspension that the doctor appeals to the Board.

As is well known, an appeal from the Professional Conduct Committee to the Privy Council is a genuine rehearing. It is an appeal in the full sense of the term. Nevertheless, as has been pointed out in the case law, to which specific reference need no longer be made because the cases are so well known, a heavy burden rests upon an appellant in his attempt to challenge a finding of the Professional Conduct Committee. He must be able to demonstrate that the finding was wrong and the penalty imposed unjust.

Dr. Saxena was a good doctor and that cannot be challenged. No doubt he remains a good doctor, notwithstanding his suspension; but he was guilty of dishonesty. He is a member of an honourable profession. The nature of the dishonesty was this, that he obtained payment from public funds under the National Health Service of salaries and wages for employees who spent, upon his instructions, a substantial amount of their time doing his personal work. The doctor makes the point that this employment of his staff on work which was not within the National Health Service but was for his private reasons, brought him no profit or personal advantage at all. They were in fact employed in various ways in helping him to produce a work and a journal dealing with the problems of medical stress about which he, as a concerned doctor working in a deprived area, felt very much concerned.

No doubt this aspect of the matter was considered by the Professional Conduct Committee. It was certainly forcefully developed by counsel in front of them and it has been forcefully developed by Dr. Saxena who has conducted his

appeal before the Board vigorously but briefly and lucidly. Of course the Professional Conduct Committee had to consider the nature of the work done by these persons privately for the doctor outside their work for the National Health Service and to consider that against the dishonesty of applying for money in respect of the time so spent.

No doubt the excellent record of the doctor with his patients, and the nature of the work upon which he employed these people, impressed the Committee and that may be the reason why, faced with six offences of dishonesty, the Committee took the course that they did and limited the penalty to suspension from registration. Be that as it may, where there is a balance, such as the Board has seen in this case and as has been fully explained by Dr. Saxena himself, can it be said that the Professional Conduct Committee went wrong in deciding that there must be suspension?

This was essentially a matter for them regarding the honour of the profession as well as ensuring justice to individual members of that profession.

Their Lordships can find no reason demonstrated to them why they should intervene and reverse the decision of the Professional Conduct Committee. Their Lordships will accordingly humbly advise Her Majesty that the appeal should be dismissed with costs.

