



BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

In the matter of

Complaint No. PF.8-1628/2018-Legal

Raja Gul Shahid Ahmad vs. Dr. Manzoor Hussain Malik

Mr. Ali Raza	Chairman
Dr. Anis-ur- Rehman	Member
Dr. Asif Loya	Member

Present:

Raja Gul Shahid	Complainant
Dr. Manzoor Husain Malik (13215-P)	Respondent
Hearing dated	10.12.2021

I. FACTUAL BACKGROUND

1. Raja Gul Shahid Ahmad (hereinafter referred to as the “Complainant”) filed a complaint before the erstwhile PM&DC on 04.04.2018 against Dr. Manzoor Hussain Malik (hereinafter referred to as the “Respondent”), wherein he alleged that Dr. Manzoor Hussain Malik negligently conducted corneal transplant of his left eye which remained unsuccessful. He further alleged that Respondent doctor did not disclose the rejection of transplant and

continued his treatment for one and a half years. Later on, the Complainant visited a corneal transplant surgeon in India who performed second transplant which was successful. The Complainant further alleged that Dr. Manzoor Hussain Malik was neither qualified nor his hospital was registered for corneal transplant surgeries.

II. NOTICES TO RESPONDENT

2. Notice dated 23.05.2018 was issued to Dr. Manzoor Hussain Malik directing him to submit reply/comments to the complaint.

III. REPLY OF RESPONDENT

3. The Respondent Dr. Manzoor Hussain Malik submitted his reply to complaint on 05.06.2018 wherein he stated that corneal transplant was done as per standard protocol, however graft rejection was a possible risk and couldn't be communicated before sufficient time was allowed for wound healing. Further re-transplantation couldn't be done without adequate corneal healing which takes time as cornea is a vascular tissue. He further submitted that early re-transplantation was not advisable as rejection rate is high in such cases

IV. PROCEEDINGS BY DISCIPLINARY COMMITTEE OF ERSTWHILE PM&DC

4. After completion of codal formalities the matter was fixed for hearing before the Disciplinary Committee of erstwhile PM&DC for final hearing on 27.04.2019. The Disciplinary Committee after hearing the parties gave its findings and recommendations in the following terms:-

“Findings:

1. *The doctor was not qualified to practice corneal transplant as per qualification and skills. He had no certification in corneal transplant. The doctor had no standard practice, his fellowship training was from Sheikh Zayed Hospital where he only observed 3-4 corneal transplant each year.*
2. *The healthcare facility owned by the consultant was not registered with HOTA as established in the PHCC report which was never challenged.*

3. There is no record of any 22 patients whose corneal transplants by the doctor except for one that was done in 2009.
4. The patient state under treatment of the respondent doctor for one and a half year but graft rejection was never brought up by him.

Recommendations for Council:

1. Respondent doctor, an ophthalmologist, owns and runs a private facility which is till to date not registered for corneal transplant and he has performed 22 corneal transplants in the same facility with no maintenance of record of his patient.
 2. The doctor had picked up graft rejection but continued his own course of treatment for a period of one and a half year, ignoring the fact that the patient immediately required second transplant.
 3. He committed forgery by changing actual dates of transplant.
 4. On account of above he is barred from corneal transplant in future. He may however work as an Ophthalmologist.”
5. The Council of the erstwhile PMDC approved the abovementioned recommendations of the Disciplinary Committee in its 196th session held on 18.05.2019 and the decision was communicated to both the parties on 03.06.2019.

V. ORDER BY MEDICAL TRIBUNAL

6. The Complainant, Raja Gul Shahid feeling aggrieved of the decision of the Disciplinary Committee dated 27.04.2019, filed an appeal before the Honourable Medical Tribunal. The Honourable Medical Tribunal vide its order dated 24.11.2021 disposed off the appeal in the following terms:-

“It may not be out of place to point out that the impugned findings/recommendations of the Pakistan Medical & Dental Council, predecessor of the PMC, dated 27.04.2019, communicated to the appellant on the ground of inadequacy, rather absence of penalty, as respondent No. 2 has only been barred from corneal transplant in future, to which even otherwise the respondent was held not qualified in the above referred findings; and further not taking any action like registration of FIR after holding the respondent responsible for forgery by changing actual dates of transplant. Needless to say that respondent No. 2, against whom these findings/recommendations were directed, never challenged the same, and seemingly remained satisfied with the same. Therefore, the findings/recommendations of the PMDC attained finality to the extent of respondent No. 2, who cannot now seek reopening of the case by setting aside the findings against him at this belated stage.....

.....As regards the inadequacy, rather absence of penalty, in the case of the appellant against respondent No. 2, suffice it to say that the proper forum for imposition of a penalty or quantum of penalty is the PMC (successor of PMDC) as in case of imposition of a penalty by the



tribunal on the basis of aforementioned findings/recommendations of the PMDC would tend to deprive respondent No. 2 of a forum of appeal. Therefore, we deem it appropriate to remit the case to the PMC for also deciding about the adequacy of the penalty under the laws/rules in vogue at the relevant time, after affording opportunity of hearing to both the parties, which should be confined to the issue referred to the PMC hereinabove. The PMC is directed to decide this simple issue as early as possible, but in no case later than a month of this order. The appeal is disposed of, accordingly, in the above stated terms.”

VI. HEARING BY DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

7. Pursuant to decision of the Honorable Medical Tribunal the matter was fixed for hearing on 10.12.2021. Notice dated 29.11.2021 were issued to the Complainant and Respondent Dr. Mazoor Hussain Malik directing them to appear before the Disciplinary Committee for hearing on 10.12.2021. The Complainant appeared in person. The Respondent Dr. Manzoor Hussain Malik appeared along with his counsel Mr. Muhammad Saeed Advocate before the Disciplinary Committee.
8. The Complainant stated that his complaint was initially decided by the Disciplinary Committee of erstwhile PM&DC on 27.04.2019. The decision was communicated to him vide letter dated 03.06.2019. He further submitted that he assailed the said order before the Honorable Lahore High Court, Multan Bench through writ petition number 9829/2019. The said writ petition was disposed of vide order dated 26.06.2019 and the matter was remitted to the Honorable Medical Tribunal.
9. The Complainant further submitted that as per order of Honorable Medical Tribunal, findings of Disciplinary Committee dated 27.04.2019 have attained finality and on the bases of said findings a major penalty should be imposed upon Respondent Dr. Manzoor Husain Malik.
10. The Disciplinary Committee asked the Respondent Dr. Manzoor Husain Malik whether he filed any appeal or assailed decision of Disciplinary Committee communicated to him on 03.06.2019. He responded that since at that time forum of Medical Tribunal was not

Decision of the Disciplinary Committee in the matter of Complaint No. PF.8-1628/2018

available, therefore he filed an appeal to the President of PM&DC against the said order. Respondent Dr. Manzoor Hussain Malik produced an appeal addressed to the President PM&DC dated 29.06.2019 which was an original document. The Committee enquired the Dr. Manzoor Husain Malik whether he actually filed any appeal as the document tilted as appeal produced before the Committee is the original document. The Respondent Doctor could not give any satisfactory answer to queries raised by the Committee as to filing of the appeal before the President, PMDC. Neither he could produce any document showing receiving of such appeal filed or follow up by the Respondent doctor with PMDC in this regard nor he could establish that he brought such appeal on the record of Medical Tribunal. The record confirmed that there existed institution of no appeal by the Respondent.

11. It was further enquired from Dr. Manzoor Husain Malik, whether he has filed any appeal against the order dated 24.11.2021 passed by Honorable Medical Tribunal to which he responded that he intends to approach August Supreme Court of Pakistan to assail the said order.
12. It was further enquired from the Respondent doctor whether he is performing corneal transplant currently and since the 2019 decision in this matter. The Respondent replied that he has stopped practicing corneal transplant procedures. He further stated that Punjab Human Organ Transplant Authority (PHOTA) has also restrained him from performing Corneal Transplant till registration with them. He has not applied for registration with PHOTA as he does not intend to practice corneal transplant.

VII. FINDINGS AND CONCLUSION

13. The instant matter has been remanded to the Pakistan Medical Commission by the Hon'ble Medical Tribunal with the observation that the impugned findings/decision of the PMDC, predecessor of the PMC, dated 27.04.2019, were communicated to the parties on the ground of inadequacy, rather absence of penalty, as the Respondent doctor had only been barred from corneal transplant in future, to which even otherwise the Respondent was held not qualified and hence a restrain from doing what one is not otherwise entitled to do is not a

penalty. The Hon'ble Tribunal has further observed that *as regards the inadequacy, rather absence of penalty..... suffice it to say that the proper forum for imposition of a penalty or quantum of penalty is the PMC (successor of PMDC).*

14. Pursuant to the order of the Hon'ble Medical Tribunal the Committee has heard both the parties. Earlier, the Disciplinary Committee of erstwhile PM&DC restrained Respondent doctor from practicing corneal transplant on account of:

Respondent doctor, an ophthalmologist, owns and runs a private facility which is till to date not registered for corneal transplant and he has performed 22 corneal transplants in the same facility with no maintenance of record of his patient;

the doctor had picked up graft rejection but continued his own course of treatment for a period of one and a half year, ignoring the fact that the patient immediately required second transplant; and

he committed forgery by changing actual dates of transplant.

15. As per record and admittedly Dr. Manzoor Husain Malik is an FCPS Ophthalmology, however corneal transplant is a further sub-specialty and to qualify to be a corneal transplant surgeon one has to demonstrate that one possesses the requisite training additionally, which the Respondent doctor admittedly neither undertook or obtained.

16. It would also be relevant to refer to the Punjab Human Organ Transplant Tissue Rules, 2012 framed by the Government of Punjab under Punjab Human Organ Transplant Organ and Tissues Act, 2010. Rule 14 (iii) (d) of said Rules prescribes requisite qualification for corneal transplant. The said clause is reproduced hereunder:

Rule 14 (iii) (d)- Punjab Human Organ Transplant Tissue Rules, 2012

Cornea Transplantation: FCPS, MS Ophthalmology or equivalent qualification with at least one year post FCPS or MS training in a recognized hospital carrying out transplant operations.


Further Rule 12 of the Punjab Human Organ Transplant Tissue Rules, 2012 specifically provided for the registration of the hospital/institution for the purpose of the transplant of human organs/tissues.

17. Therefore, the specific requirement of at least one year post FCPS or MS training in a recognized hospital carrying out transplant operations are provided as condition precedent for corneal transplantation under the abovementioned Punjab Human Organ Transplant Tissue Rules, 2012. Further, the contention of Respondent doctor that no registration of institution for transplantation was required under the said PHOTA Rules in 2015 i.e. when the operation of Complainant was performed is misplaced and without any basis.
18. The matter was initially decided under the Pakistan Medical and Dental Council Ordinance 1962. Section 31 of the Pakistan Medical and Dental Council Ordinance 1962 mandated the erstwhile PM&DC to remove name of a practitioner for a specific period from the register of medical practitioners on account of negligent conduct or who has shown himself to be unfit to continue in practice on account of mental ill health or other grounds. The relevant provision is reproduced hereunder:-

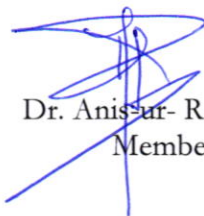
Section 31(1) – PMDC Ordinance, 1962

The council in its discretion may refuse to permit the registration of any person or direct the removal altogether or for a specified period from the Register of the name of any registered medical practitioner or registered dentist who has been convicted of any such offence as implies in the opinion of the Council a defect of character or who, after an inquiry at which opportunity has been given to such person to be heard in person or through advocate or pleader has been held by the Council as guilty of infamous conduct in any professional respect or who has shown himself to be unfit to continue in practice on account of mental ill health or other grounds.

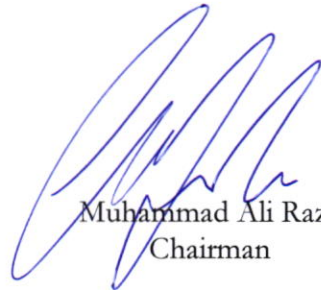
19. It stands established by record and by the findings of the Disciplinary Committee of erstwhile PMDC which have since attained finality, that the Respondent doctor carried out corneal transplant without requisite skills/training and did so at a private facility owned and operated by him which was not registered for corneal transplant under the relevant law. The conduct


was the Respondent doctor was not only violative of his licensed privileges and in violation of the law but more so represented an act of patent misrepresentation to unsuspecting patients. Therefore, a penalty is imposed in line with what was provided for under the law as was applicable at the time of the original decision of the Disciplinary Committee whereby the license of Dr. Manzoor Hussain Malik is directed to be suspended for a period of one (01) year.

20. Further, Dr. Manzoor Hussain Malik shall undergo and complete a certified course in medical ethics and submit the certificate with a formal request for restoration of his license on completion of suspension period.


Dr. Anisur-Rehman
Member


Dr. Asif Loya
Member


Muhammad Ali Raza
Chairman

31st January, 2022