

CITATION: *Legal Services Commissioner v Singh* [2014] QCAT 218

PARTIES: Legal Services Commissioner
(Applicant)
v
Abhay Kumar Singh
(Respondent)

APPLICATION NUMBER: OCR204-10

MATTER TYPE: Occupational regulation matters

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: **Justice Alan Wilson, President**

DELIVERED ON: 19 May 2014

DELIVERED AT: Brisbane

ORDERS MADE: **Order that the respondent pay the applicant's costs of and incidental to the disciplinary proceeding, assessed on the standard basis.**

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – DISCIPLINARY PROCEEDINGS – COSTS – where Tribunal found respondent guilty of professional misconduct – where Tribunal ordered that the respondent's name be removed from the roll of practitioners – where Tribunal ordered parties to file and exchange written submissions on costs – where respondent appealed decision – where Court of Appeal dismissed respondent's appeal where s 462(1) *Legal Profession Act* 2007 (Qld) requires Tribunal to make an order requiring a person who has engaged in prescribed conduct to pay costs unless exceptional circumstances exist – whether respondent is exempt from a costs order under s 462(1) in a manner prescribed by s 462(5)

Legal Profession Act 2007 (Qld) ss 462(1),

462(5)
Queensland Civil and Administrative Tribunal Act
 2009 (Qld) s 194A(2)

Legal Services Commissioner v Singh [2013]
 QCAT 154, cited
Singh v Legal Services Commissioner [2013]
 QCA 384, cited

APPEARANCES and REPRESENTATION (if any):

APPLICANT: Ms Lane for the Legal Services Commissioner

RESPONDENT: Mr Singh in person

REASONS FOR DECISION

- [1] On 9 April 2013 the Tribunal, after hearing and deciding disciplinary proceedings against Mr Singh,¹ ordered that his name be removed from the local roll and that the parties file and serve written submissions on costs sought by the Commissioner.²
- [2] Under s 462(1) of the *Legal Profession Act* 2007 (Qld) the Tribunal *must* make an order requiring a person who has engaged in prescribed conduct to pay costs unless *exceptional circumstances* exist.
- [3] Mr Singh subsequently appealed the Tribunal's decision to the Court of Appeal. His appeal was dismissed with costs late last year.³
- [4] Mr Singh responded to the Tribunal's order about submissions on costs in a document he filed in early September 2013, when his appeal was undetermined. He suggested the Tribunal had no jurisdiction while the appeal was on foot. That is wrong but now, in any event, irrelevant.
- [5] Otherwise, he did not contend that exceptional circumstances exist. His submission was that costs ought be 'minimal' in light of the fact that he had not practised as a lawyer in Australia in a "*major*" way; had been unemployed from the year 2010; had family and mortgage commitments; and was attempting to run a business, which was struggling.
- [6] These proceedings were vigorously contested, and prolonged. Mr Singh was found guilty of professional misconduct. This is 'prescribed conduct' as that phrase is used in s 462(1). There is no reason to exempt this matter, or him, from the usual order that the section prescribes.

¹ Justice Alan Wilson, President; Mr Matthew Woods, Practitioner Panel Member; Dr Julian Lamont, Lay Panel Member.

² Although my term as President of QCAT finished some months ago, this residual costs issue in a matter in which I presided can be heard and determined by me pursuant to s 194A(2) of the *QCAT Act* 2009.

³ *Singh v LSC* [2013] QCA 384.

- [7] Under s 462(5) of the *LPA* an order for costs may be for a *stated amount*, or for an *unstated amount* which, however, shows the basis upon which the costs are to be calculated.
- [8] No submissions have been received from the Commissioner seeking a stated amount. In the circumstances of this matter the appropriate order is that Mr Singh pay the Commissioner's costs of an incidental to the proceedings, assessed on the standard basis.