Surgeon wins fight after NHS cover-up

Arjuna Weerasinghe, who claimed his operating theatre was filthy and lacked vital equipment, says his sacking had ‘crippling effects’ (Jeremy Young)

A SURGEON is seeking a seven-figure compensation payout after an employment tribunal ruled he was unfairly sacked for gross misconduct after blowing the whistle on poor patient care at a hospital.

Arjuna Weerasinghe, who believes he contracted pneumonia in a filthy operating theatre at Basildon Hospital in Essex, raised concerns in 2010 after vital equipment was unavailable when he performed surgery on a man who died three days later.

It took hospital chiefs 14 months to respond to a coroner’s request for information about the case and an initial internal report was altered to remove a sentence exonerating Weerasinghe of any blame.

The original author was asked by a senior clinician to provide “a ‘quick and dirty’ response”, which the tribunal said was a request to “get rid of the matter quickly and quietly” and motivated by the trust being “concerned about . . . potential exposure to litigation”.

The case will reignite concerns over the bullying of NHS whistleblowers despite Jeremy Hunt, the health secretary, demanding last year that efforts by managers to cow them or force them to sign gagging agreements should stop.

Weerasinghe, 50, was sacked in 2012 for gross misconduct for attending job interviews and medical courses at his own expense while off work and receiving sick pay for a chronic chest condition that he believes was a result of the pneumonia he contracted at the hospital.

He had, however, told managers about most of the engagements, provided regular updates about his health and dealt with paperwork about patients from home.

The decision to sack Weerasinghe was made by Dr Chanaka Karunaratne, the hospital’s clinical director for surgery. He refused to read a three-page report from Weerasinghe’s GP before the disciplinary hearing, arguing that it would have taken 30 minutes to do so.

The tribunal, which issued its judgment last month, rejected the argument put forward by Karunaratne as “so illogical as to lack any credibility” and said his evidence to it had “changed regularly and in many cases was simply not credible”.

In the same year that Weerasinghe raised concern with his bosses over the lack of packing wick — surgical gauze used to stem bleeding — during the operation on the man, Basildon and Thurrock University Hospitals NHS Foundation Trust was named by the Care Quality Commission, the health regulator, as one of 25 trusts in need of urgent investigation over high mortality rates. It was recommended that it be taken out of special measures only last month.

Weerasinghe, who was denied access to an ill-health retirement pension because he had been fired, said: “I firmly believe the patient would have survived if we had had the [packing] wicks. I was shocked we had none in theatre and was appalled to discover there were actually none in the hospital.”
A coroner ruled that the 61-year-old man died from a “recognised complication of a necessary surgical procedure” but did not mention the absence of the packing wick.

A spokesman for the Essex coroner, Caroline Beasley-Murray, said this weekend that she was examining changes to the internal reports. “She is aware of the concerns that have been raised,” he said.

Weerasinghe says that his patient’s family deserve the truth. “I believe his death was avoidable. It was distressing and I am still not sure his family, who were asking questions, know the full circumstances of their father’s death,” he said.

The tribunal also heard how hospital staff complained in November 2010 that walls in operating theatres had not been cleaned for 16 months. One surgeon believed that “financial considerations may have delayed the wall washing”.

The east London employment tribunal said in its judgment that the disclosures relating to the death of Weerasinghe’s patient “were a material influence in the decisions . . . to subject [him] to a disciplinary investigation”.

Weerasinghe said: “It has been a very difficult time for me and my family. The extreme efforts made by individuals at Basildon Hospital over the past four years towards tarnishing my credibility, reputation and professional career has had crippling effects. I believe these individuals are being safeguarded at the expense of patients, despite . . . the coroner being provided with altered evidence, [which] is worrying.”

His lawyer, Arpita Dutt, said: “The judgment . . . exposes a lack of credibility, arrogance and manipulation of processes that have led to unanswered questions around the death of a patient.”

The hospital trust said it was taking advice about whether there were grounds to appeal and claimed the tribunal concluded that Weerasinghe was not dismissed for raising issues relating to patient care. It said: “Clearly there are lessons to be learnt and we will be conducting an internal review.”