

BEFORE THE ANTI DOPING APPEAL PANEL
Conference Room, Block-A, Pragati Vihar Hostel
Lodhi Road, New Delhi -110 003

Appeal No.-01.ADAP.2014

IN THE MATTER OF

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| World Anti Doping Agency (WADA) | | APPELLANT |
| Vs | | |
| Ms. Rishu Nagar | | RESPONDENT |

Quorum: Mr. Justice M.L. Varma, Chairman
Ms. Indu Puri, Member
Dr. V.K. Sharma, Member

Present Ms. Rishu Nagar, athlete along with her uncle Mr. Leelu Nagar.
Mrs. Biji Rajesh, Advocate on behalf of WADA.
Dr. Saravana Perumal S., Sr. Project Officer, NADA.

02.06.2014

ORDER

This is an appeal filed by World Anti Doping Agency (WADA) against the order dated 25.10.2013 passed by the Anti Doping Disciplinary Panel. In the impugned order the period of ineligibility imposed on the athlete is one (1) year under Article 10.5.2. WADA has taken exception to the reduction in the period of disqualification/ineligibility from two (2) years in Article 10.2 to one year. As per the impugned order the period of one (1) year has to run from 05.06.2013 on which date the athlete was provisionally suspended. One year expires on 04.06.2014. Therefore, the appeal was urgently listed for hearing today after notice to the athlete, who is present in person with her uncle Mr. Leelu Nagar.

We heard arguments on behalf of WADA. We also explained to the athlete the substance of the arguments advanced on behalf of WADA for enhancement of the punishment from one year to two year. The athlete was unable to satisfy us why the period of ineligibility should not be increased from one year to two year, as prescribed in Article 10.2 in the NADA Code.

We may now notice, some relevant facts. The test of the samples found that the urine contained Nandrolone classified under S1. 1(a) (Exogenous Anabolic Androgenic Steroid). Nandrolone



(including its metabolite 19-NA) is a prohibited substance. This is an admitted position. The athlete has not explained how this prohibited substance entered her body. The test reports of both 'A' & 'B' samples show that this prohibited substance is 65 times more than the permissible limits.

The athlete's case before the Disciplinary Panel was that she used to suffer from Ligament pain for which she took medical treatment. Exhibit-6 shows that one of the Doctor's had prescribed Defcort-6. This is a steroid but not Nandrolone which is an anabolic steroid. Whereas steroid-Defcort-6, can be taken orally also apart from being injected in the system, Nandrolone, which is anabolic steroid, cannot be taken orally and has to be injected into the body. The prescription in Exhibit-6 had not prescribed Nandrolone, which has been found in the samples of the athlete for which there is no explanation put forward by the athlete as noticed above.

It may be noticed here that Nandrolone is a non-specified substance. On the basis of the admitted facts Article 10.5.2 cannot be applied to the case and the period of ineligibility of two years prescribed under Article 10.2 cannot be reduced. We are unable to agree with the reasoning given by the Anti Doping Disciplinary Panel for reduction of the period of ineligibility, which is more on compassionate grounds. The Disciplinary Panel has upheld the finding in the test reports of the samples, but the reasoning given for reduction of period of ineligibility is not in conformity with the provisions of NADA Code. The impugned order has recorded that this is a case "..... where the youth, inexperience and lack of knowledge of rules due to lack of education has been proved by the athlete". For this reason the Disciplinary Panel has held that athlete is entitled to a reduction in the normal period of sanction. In arriving at this conclusion what has been overlooked is that there is no explanation whatsoever by or on behalf of the athlete, as to how the prohibited substance entered her body, which is a prerequisite for reduction in the period of sanction/ineligibility/disqualification.

For the foregoing reasons, this Panel is of the view that the reduction in the period of ineligibility awarded to the athlete by the Disciplinary Panel is unsustainable and contrary to the Articles of NADA Code. We are, therefore, constraint to enhance the period of ineligibility from one year to two years meaning thereby that the order dated 25.10.2013 passed by Disciplinary Panel would be operative for two (2) years instead of one (1) year i.e. from 05.06.2013 to 04.06.2015. The appeal is accordingly allowed to that extent.


(Justice M.L. Varma)
Chairman


(Dr. V.K. Sharma)
Member, Medical Doctor


(Ms. Indu Puri)
Member, Sportsperson