

Anti-Doping Disciplinary Panel

J.L.N Stadium, Gate No. 10 Hall No.103
1st Floor, Lodhi Road, New Delhi 110 003
Telefax: 011-24368274

To,

Date: 17.10.2023

Mr. Kunal Singh
R/o Behd Community Centre,
Noio New Colony Karmagora,
Dhanbad, Jharkhand, India - 828119
Email: - kunal3259@gmail.com

Subj: Decision of the Anti-Doping Disciplinary Panel Case No.- 124.ADDP.2023

NADA Vs. Mr. Kunal (ADAMS ID: - SIKUMA99717)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 17.10.2023 in respect of final hearing of the above case held on 29.08.2023 is enclosed.


Please note that according to Article 13.2.2 of Anti-Doping Rules of NADA 2021, **the time to file an appeal to the National Anti-Doping Appeal Panel shall be twenty-one (21) days from the date of receipt of this decision by the appealing party.** The appeal may be filed at the abovementioned address.

Also please note that according of Article 10.7.1- (**Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations**)- Any period of Ineligibility imposed may be partially suspended if you assist NADA in uncovering and/or establishing an ADRV by another Athlete or Athlete Support Personnel pursuant to Article 10.7.1 ADR. Further, the athlete is subjected to doping control test during the ineligibility period, therefore, athlete is required to update his residential address as and when changed.

Copy of the NADA Anti-Doping Rules 2021 may be downloaded from NADA website at the following link: -www.nadaindia.org/en/anti-doping-rule-of-nada

The receipt of this communication may be acknowledged.

Encl: 04 sheets



(Yasir Arafat)
Law officer

Copy forwarded together with the copy of the order containing the decision of the Anti-Doping Disciplinary Panel for information and action deemed necessary:

1. World Anti-Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada.
2. General Secretary, Powerlifting India, Midhun Palace Ward, Alappuzha, Kerala 688011.
3. International Powerlifting Federation, 1, Rue Pasteur, 4642, Differdange, Luxembourg.
4. National Anti-Doping Agency, J.L.N Stadium, 1st Floor, Hall No. 104, Lodhi Road, New Delhi, 110003

BEFORE THE ANTI DOPING DISCIPLINARY PANEL

In the matter of **Mr. Kunal Singh** for violation of Articles 2.1 and 2.2 of National Anti-Doping Agency Anti-Doping Rules, 2021

Quorum: Mr. Chaitanya Mahajan, Chairman, ADDP
Dr. R.K. Arya, ADDP
Mr. Akhil Kumar, ADDP
Present: Mr. Yasir Arafat, NADA
Mr. Kunal Singh, Athlete

J U D G E M E N T

17.10.2023

1. The present proceedings before this Anti-Doping Disciplinary Panel (**“this panel”**) emanate from the Adverse Analytical Finding (**“AAF”**) against Mr. Kunal Singh (**“the athlete”**). The athlete is a **“Powerlifter”** and his date of birth as stated by him in the Dope Control Form (**“DCF”**), happens to be **28.08.1995**.
2. That the brief facts of the case are as follows:
 - 2.1 On **02.04.2023**, a NADA Doping Control Officer ("DCO") collected a urine Sample from the Athlete In-Competition test in Kozhikode, Kerala with samples split into two parts. The 'A' and 'B' samples were marked with unique reference code of **6502281**. The said test was conducted in National Dope testing Laboratory, Delhi, India.
 - 2.2 The A samples of the Athlete was tested at the National Dope Testing Laboratory, Delhi (NDTL) in accordance with the procedures set out in WADA's International Standards for Laboratories and was returned with an Adverse Analytical Finding (**“AAF”**) for **S5. Diuretics and Masking Agents/Furosemide**
 - 2.3 The said Substance is a Diuretics and Masking Agents which is used by the athletes to mask the presence of performance enhancing drugs in urine and/or excrete water for rapid weight loss and is listed under S5 of WADA's 2023 Prohibited List which are specified substances.

2.4 The initial review of samples A shows that there was no apparent departure from the International Standard for Testing and Investigations ('ISTI') or the International Standard for Laboratories ('ISL') that could undermine the validity of the AAF.

2.5 First notification to the Athlete was issued on 10.05.2023 informing him about the AAF and was also informed about his rights and that in case the athlete is unwilling to accept the result of Sample A, he has the right to request for the opening of Sample B at his own cost.

2.6 The Athlete vide his email dated 26.05.2023 denied for the counter-analysis of Sample B and accordingly the right of B-sample analysis was closed.

2.7 The athlete vide its email dated 22.05.2023 and 26.05.2023 stated that he is facing the issue of blood pressure and that the Doctor has advised him to consume a medicine named 'Lasix 40mg'. The athlete further stated that he was unaware of the fact that consuming the said medicine would lead to ADRV under NADA rules and requested for a chance since it was his first national sporting event. The athlete also attached a medical prescription dated 27.03.2023 of one Dr. Deepak Chaudhury prescribing the said 'Lasix-40' along with two other medicines.

2.8 The Notice of Charge was issued to the Athlete on 19.06.2023 and final opportunity to submit explanation was granted to the Athlete up till 09.07.2023.

3. As per NADA's records, the Athlete did not have a Therapeutic Use Exemption ("TUE") to justify the presence of above Hormone and Metabolic Modulator in his system.

4. On 18.07.2023 notice was sent to the athlete for the initiation of disciplinary proceedings for the violation of Article 2.1 and 2.2 of ADR 2021 in terms of Article 8.3 of the International Standard for Result Management (ISRM) 2021.

5. Submissions made by the Athlete are reproduced herein:

6.1 The athlete during the disciplinary proceedings submitted that this was the first time he was participating in a national sporting event and also that it was his first

dope test. The athlete also stated that the drug he consumed is not a performance enhancer and that it does not assist the athlete in an unfair manner while competing.

6.2 The athlete further submitted that he was not aware of the illegality involved in consuming the said drug since he was consuming it to cure the blood pressure issue he was facing.

6.3 The athlete lastly submitted that he belongs to a far of place called Dhanbad and that there is no support from the federation with regards to apprising the athlete about doping and its repercussions which is a contributing factor in the athlete not being aware of the anti-doping rules.

6. Submissions by NADA:

7.1 The representative of NADA stated that the initial burden of proof has been established by the NADA since the dope test results have confirmed the presence of substance from the specified category which attracts the punishment under Article 10.2 of the ADR. It was also submitted that in the event the presence of a specified substance is confirmed the standard ineligibility period is 2 years.

7.2 The representative of NADA also submitted that whether knowingly or unknowingly, the consumption of the drug without proper TUE is the athlete's fault and since the athlete did not have an exemption from the NADA to consume the said drug the Athlete is guilty of ADRV.

7.3 It was further submitted by the representative of NADA that the medical documents furnished by the athlete neither has the Doctor's registration number nor the stamp which challenges the authenticity of the medical prescription. Moreover, the athlete had not disclosed the consumption of the said drug in the Doping Control Form and hence have failed to disclose the same at the appropriated time.

Observations and Findings of the Panel

We have heard the arguments made by the Athlete, arguments by NADA and perused the available material on record shared with us.

- 3 It has been observed that the athlete has been unable to disclose the real source of ingestion of the said drug as the authenticity of the medical prescription provided by the athlete is disputed for not having the Doctor's registration number and the stamp. The athlete has also failed to disclose the consumption of the drug in the Doping Control Form which goes to show the athlete possessed the intention to dope and hide the same during the filling of DCF.
- 4 It has been observed that the athlete has not only failed provide the real source from where the prohibited substance entered into his body but also has failed to prove unintentional consumption of the said substance. The panel would like to refer **CAS 2008/A/1668 World Anti-Doping Agency (WADA) v. National Olympic Committee & Sports Confederation of Denmark & Dansk Boldspil-Union (DBU) & Jesper Münsberg**, the panel observed the following:

“in order to benefit from the elimination or reduction of the sanction, the Player must fulfil two cumulative conditions, i.e. establish how the specified substance (in this case salbutamol) entered his body and establish the absence of intent to enhance his sporting performance.

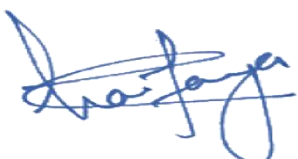
Each of the two foregoing conditions is subject to a different standard of proof.”

7. It has been established that the athlete has consumed a drug for which he did not have the Therapeutic Use Exemption.
8. All these circumstances reveal that the athlete had consumed a drug which was prohibited and a specified substance and had not disclosed the same in the DCF but only did it at a very latter stage.
9. In view of the above discussion, it is established that a violation under Article 2.1 and 2.2 of the Anti-Doping Rules has taken place since the Athlete's sample has returned an adverse finding.
10. In view of the above facts and circumstances and keeping in mind the conduct of the Athlete in not being able to disclose the source of the said substance the Panel is of the

opinion that the consumption of the prohibited substance by the Athlete was intentional, and that the athlete was not able to establish no fault liability.

11. Once a violation of anti-doping rules has been established, Sanctions on Individuals as provided under Article 10 of the Anti-Doping Rules 2021 must ensue. The present case involves a Specified Substance, hence the Athlete would be liable for sanctions under Article 10.2.1.
12. **In view of the facts and circumstances stated above, the Panel holds that the Athlete is liable for sanctions under Article 10.2.2 and liable for ineligibility for a period of 2 year. In the present case, since the Athlete had not been provisionally suspended, the Panel accordingly holds that the Athlete's period of his ineligibility for the period of 2 year shall commence from the date of decision i.e. 17.10.2023.**
13. **We also direct that under Article 10.10 all other competitive results obtained by the athlete from the date of incident i.e., 02.04.2023 shall be disqualified with all resulting consequences including forfeiture of medals, points, and prizes**

The matter is disposed of, accordingly.



Mr. Chaitanya Mahajan

(Chairman)



Dr. R. K. Arya

(Medical Member)



Mr. Akhil Kumar

(Sports Member)